

FEDERAL REGISTER

VOLUME 21 1934 NUMBER 30

OF THE UNITED STATES

Washington, Tuesday, February 14, 1956

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM COMPETITIVE SERVICE

DEPARTMENT OF DEFENSE; DEPARTMENT OF ARMY

Effective upon publication in the FEDERAL REGISTER, paragraph (k) (2) of § 6.104 and paragraph (a) (3) of § 6.305 are amended as set out below.

§ 6.104 Department of Defense. * * *

(k) Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force). * * *

(2) Until December 31, 1960, positions in Attache Systems overseas, including positions in the Naval Research Branch Office in London.

§ 6.305 Department of the Army—(a) Office of the Secretary. * * *

(3) The General Counsel.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633, E. O. 10440, 18 F. R. 1823, 3 CFR 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,

Executive Assistant.

[F. R. Doc. 56-1137; Filed, Feb. 13, 1956; 8:49 a. m.]

PART 6—EXCEPTIONS FROM COMPETITIVE SERVICE

POST OFFICE DEPARTMENT

Effective upon publication in the FEDERAL REGISTER, paragraph (a) (5) of § 6.109 is revoked and paragraph (a) (10) is added as set out below.

§ 6.109 Post Office Department—(a) General. * * *

(10) Fourth-class postmaster positions in Alaska.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,

Executive Assistant.

[F. R. Doc. 56-1138; Filed, Feb. 13, 1956; 8:49 a. m.]

PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

ARCHIVIST

Paragraph (a) (4) (i) of § 24.36 and paragraph (a) of § 24.60 are amended as set out below.

§ 24.36 Junior Professional Assistant—(a) Educational requirement. * * *

(4) Archivist. * * *

(i) A full 4-year course, in a college or university of recognized standing, including or supplemented by 12 semester hours in U. S. History and 18 semester hours in any one or in any combination of the following: (a) history; (b) political science; (c) sociology; (d) economics; (e) public administration; (f) geography; (g) law; or

§ 24.60 Archivist, GS-1420-7-13 (positions involving specialized archival work of highly technical character)—

(a) Educational requirement. Applicants must have successfully completed a full 4-year course in a college or university of recognized standing, including or supplemented by 12 semester hours in U. S. History and 18 semester hours in any one or any combination of history, political science, sociology, economics, public administration, geography and law.

(Sec. 11, 58 Stat. 390; 5 U. S. C. 860)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,

Executive Assistant.

[F. R. Doc. 56-1123; Filed, Feb. 13, 1956; 8:48 a. m.]

Chapter III—Foreign and Territorial Compensation

[Dept. Reg. 108.278]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DESIGNATION OF DIFFERENTIAL POSTS

Section 325.11 Designation of differential posts, is amended as follows, effective on the dates indicated:

1. Effective as of the beginning of the first pay period following February 11,

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FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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1956, paragraph (a) is amended by the deletion of the following post:
Hanoi, Vietnam.

2. Effective as of the beginning of the first pay period following February 11, 1956, paragraph (b) is amended by the deletion of the following posts:

Philippines, all posts except Angeles, Baguio City, Cavite (including Sangley Point), Davao, Iligan, Manila and Naga City.

3. Effective as of the beginning of the first pay period following February 11, 1956, paragraph (c) is amended by the deletion of the following post:

Davao, Philippines.

4. Effective as of the beginning of the first pay period following February 11, 1956, paragraph (d) is amended by the deletion of the following posts:

Libya, all posts except Barce, Derna, El Awella, Garian, Misurata, Tripoli, Wheelus Field, Zavia and Zliten.

5. Effective as of the beginning of the first pay period following December 31, 1955, paragraph (b) is amended by the addition of the following post:

Sucre, Bolivia.

6. Effective as of the beginning of the first pay period following February 11, 1956, paragraph (b) is amended by the addition of the following posts:

Cirene, Libya.
Philippines, all posts except Angeles, Baguio City, Cavite (including Sangley Point), Ilagan, Manila and Naga City.
Zuara, Libya.

7. Effective as of the beginning of the first pay period following June 4, 1955, paragraph (d) is amended by the addition of the following post:

Foret de Chlze (Niort), France.

8. Effective as of the beginning of the first pay period following February 11, 1956, paragraph (d) is amended by the addition of the following posts:

Libya, all posts except Barce, Cirene, Derna, El Awella, Garian, Misurata, Tripoli, Wheelus Field, Zavia, Zliten and Zuara.

(Sec. 102, Part I, E. O. 10000, 13 F. R. 5453, 3 CFR, 1948 Supp.)

For the Secretary of State.

L. W. CARPENTER, Jr.,
Assistant Secretary-Controller.

FEBRUARY 2, 1956.

[F. R. Doc. 56-1105; Filed, Feb. 13, 1956;
8:45 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter G—Miscellaneous Regulations

[FHA Instruction 445.1 and Administration Letter 263 (445)]

PART 381—PRODUCTION EMERGENCY AND PROPERTY DAMAGE LOANS

SUBPART A—LOANS UNDER SECTION 2, PUBLIC LAW 37, 81ST CONGRESS

REVISION OF LOAN PURPOSES AND SECURITY REQUIREMENTS

1. Section 381.5 in Title 6, Code of Federal Regulations (16 F. R. 3970, 6279, 17 F. R. 1381), is amended to revise the purposes for which such loans may be made, and to read as follows:

§ 381.5 *Loan purposes.* (a) Production Emergency loans may be made for any of the agricultural purposes indicated in this section that are essential to a continuation of the applicant's normal operations. However, the exact purposes for which loan funds will be advanced in a given area will be determined by the type of farming carried on in that area, the nature of the disaster which occurred, and the nature and extent of losses suffered by applicants for loans. Simultaneously with the designation of a disaster area, the State Director will be notified of the specific purposes for which Production Emergency loans may be made in that area. Such purposes may include:

(1) The purchase of feed, seed, fertilizer, insecticides, and fuel for tractors; the payment of customary and equitable charges for the use of farm buildings, pasture lands, as well as grazing permits

and fees; and for other essential farm and home operating expenses.

(2) The payment of bills that were incurred for annual recurring operating expenses in connection with the production of livestock, livestock products, and crops that are to be harvested or marketed during the crop year for which the loan is being made. This does not authorize the payment of bills incurred in connection with crops or livestock that have been lost, destroyed, or disposed of prior to loan approval.

(3) The purchase of livestock.

(4) The purchase of orchard and citrus nursery stock.

(5) The purchase of replacement farm and home equipment, or the repair thereof.

(6) The replacement or repair of buildings, fences, drainage and irrigation systems on individual farms.

(7) The leveling of land and the clearance of debris therefrom necessary as a direct result of the disaster.

(8) The payment of (i) not more than a year's taxes due or about to become due on real and personal property, (ii) water charges, and (iii) not more than a year's interest, calculated at a rate not to exceed that which is reasonable and customary for the area, that is due or about to become due on debts secured by liens on livestock, farm machinery and equipment, and farm real estate, provided the anticipated income will support such obligations for taxes, water charges, or interest and arrangements cannot be made for payment thereof from future income.

(9) Other agricultural purposes not inconsistent with the limitations set forth in connection with any of the above purposes.

(10) The purchase of farm building and headquarters sites above the danger of high water when, because of flood damage to the applicant's farm buildings it is necessary to move existing buildings to, or construct new buildings on, land above high water.

(i) The building or headquarters sites to be purchased will be limited to the minimum acreage needed for the home-stead, barns, sheds, and other farm buildings or structures, together with necessary garden plots, lots, stock tanks or ponds, and pasture for subsistence animals or emergency use. In no event, however, may the acreage purchased constitute an economic farm unit or enable the applicant to expand substantially the size of his farming operations. The site to be purchased will be so located as to be readily accessible to the applicant's present farm, and to permit the other land owned by the applicant to be operated as one unit with the site purchased.

(11) Expenses incident to the making of such loans.

(b) Except as specifically provided in paragraph (a) (2) of this section, Production Emergency loans will not be made for the purpose of refinancing existing debts, either secured or unsecured; and for payment of cash rent on crop land.

2. Section 381.7 (b) in Title 6, Code of Federal Regulations (16 F. R. 9279), is amended to revise the security requirements for such loans, and to read as follows:

§ 381.7 *Security requirements.* * * *

(b) A first lien on all crops growing or to be grown. However, if the Farmers Home Administration will make no advance in connection with a particular crop which is under lien as security for advances made by another creditor, the best lien obtainable will be taken on such crop. When a loan is made to a tenant, the landlord will be required to subordinate all his interest in crops being financed with the proceeds of the loan, except, that at the discretion of the loan approving officer, the landlord may not be required to subordinate his claim for rent for the year that is based on a reasonable and customary share of the crops to be produced and the customary and equitable charge for farm buildings or pasture lands, as provided for in a written lease or as evidenced by memorandum on Form FHA-32, "Subordinate Agreement," or similar form.

Dated: January 25, 1956.

(R. S. 161; 5 U. S. C. 22)

H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[F. R. Doc. 56-1112; Filed, Feb. 13, 1956;
8:46 a. m.]

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[1955 C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 1, Soybeans]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1955-CROP SOYBEAN LOAN AND PURCHASE AGREEMENT PROGRAM

BASIC COUNTY SUPPORT RATES; MINNESOTA

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 20 F. R. 5045 containing the specific requirements for the 1955-Crop Soybean Price Support Program are amended as follows:

Section 421.1433 (a) (1) is amended by adding to the list of basic county support rates, "Minnesota—Roseau County—\$1.93 per bushel."

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interprets or applies sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1033; 15 U. S. C. 714c, 7 U. S. C. 1447, 1421)

Issued this 9th day of February 1956.

[SEAL] WALTER C. BERGER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 56-1132; Filed, Feb. 13, 1956;
8:49 a. m.]

[1955 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 2, Flaxseed]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1955-CROP FLAXSEED LOAN AND PURCHASE AGREEMENT PROGRAM

BASIC COUNTY SUPPORT RATES; WYOMING

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 20 F. R. 3601 and 8422, and containing the specific requirements for the 1955-Crop Flaxseed Price Support Program are hereby amended as follows:

Section 421.1483 (c) (1) is amended by adding to the list of basic county support rates, "Wyoming—Goshen County, \$2.63 per bushel."

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interprets or applies sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1054; 15 U. S. C. 714c, 7 U. S. C. 1447, 1421)

Issued this 9th day of February 1956.

[SEAL] **WALTER C. BERGER,**
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 56-1133; Filed, Feb. 13, 1956; 8:49 a. m.]

TITLE 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation

[Amdt. 3]

PART 417—TOBACCO CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1954 AND SUCCEEDING CROP YEARS

THE POLICY

The above identified regulations, as amended (18 F. R. 5703; 19 F. R. 469, 5602; 20 F. R. 5625, 7983) are hereby amended, effective beginning with the 1956 crop year as follows:

Subsection (a) of section 4 of the policy shown in § 417.8 is amended by striking the period at the end of the last sentence of that subsection, substituting a comma therefor and adding the following: "except that, the total reduction in the coverage per acre resulting therefrom may be limited in any county if a provision for such limitation is included on the actuarial table for that county."

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U. S. C. 1506, 1516. Interprets or applies secs. 507-509, 52 Stat. 73-75, as amended; 7 U. S. C. 1507-1509)

Adopted by the Board of Directors on January 30, 1956.

[SEAL] **C. A. FRETTS,**
Acting Secretary,
Federal Crop Insurance Corporation.

Approved on February 9, 1956.

MARVIN L. McLAIN,
Assistant Secretary.

[F. R. Doc. 56-1135; Filed, Feb. 13, 1956; 8:49 a. m.]

PART 422—CITRUS CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1956 AND SUCCEEDING CROP YEARS

By virtue of the authority contained in the Federal Crop Insurance Act, as amended, the "Regulations for the 1954 and Succeeding Crop Years," (19 F. R. 470) which shall continue in full force and effect for the 1955 crop year, are hereby amended for the 1956 and succeeding crop years to read as set forth below. The provisions of this subpart shall apply, until amended or superseded, to all continuous citrus contracts as they relate to the 1956 and succeeding crop years.

Sec.
422.1 Availability of citrus crop insurance.
422.2 Coverages and premium rates.
422.3 Application for insurance.
422.4 Public notice of indemnities paid.
422.5 Creditors.
422.6 The policy.

AUTHORITY: §§ 422.1 through 422.6 issued under secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U. S. C. 1506, 1516. Interpret or apply secs. 507-509, 52 Stat. 73-75, as amended; 7 U. S. C. 1507-1509.

§ 422.1 *Availability of citrus crop insurance.* Citrus crop insurance will be provided in Orange and Polk Counties, Florida, except that insurance will not be provided in a county for any crop year unless the minimum participation requirement prescribed by the Federal Crop Insurance Act, as amended, is met before the June 1 following the beginning of such crop year. For this purpose an insurance unit shall be counted as one farm.

§ 422.2 *Coverages and premium rates.* (a) The Corporation shall establish coverage(s) and premium rate(s) per acre which shall be shown on the county actuarial table on file in the county office and may be revised from year to year.

(b) The premium for each crop year shall be paid before the beginning of the insurance period for such crop year except that payment may be deferred upon the insured making arrangements satisfactory to the Corporation for the payment of the premium. The Corporation may charge interest at not to exceed six percent per annum on deferred payments.

§ 422.3 *Application for insurance.* Application for insurance on a form prescribed by the Corporation may be made by any person to cover his interest as landlord, owner-operator, or tenant in a citrus crop. A supplemental application may be submitted to cover any interest in citrus acreage acquired after the date of premium payment for any crop year. For any crop year applications and supplemental applications may be submitted to the county office until such time as the Manager of the Corporation terminates the sale of citrus insurance for such crop year.

§ 422.4 *Public notice of indemnities paid.* The Corporation shall provide for the posting annually in each county at the county courthouse of a list of indemnities paid for losses in the county.

§ 422.5 *Creditors.* An interest in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any involuntary transfer shall not entitle the holder of the interest to any benefit under the contract.

§ 422.6 *The policy.* The provisions of the policy for the 1956 and succeeding crop years are as follows:

Pursuant to the provisions of the application upon which this policy is issued, which application together with this policy shall constitute the contract, and subject to the terms and conditions set forth herein, the Federal Crop Insurance Corporation (herein called the "Corporation") does insure

(Name)	(Policy No.)
(Address)	(County)

Florida (herein called the "insured") against unavoidable loss on his citrus crops due to freeze, hail, hurricane, or tornado.

In witness whereof, the Corporation has caused this policy to be issued this _____ day of _____, 195_____

FEDERAL CROP INSURANCE CORPORATION,

By _____
(State Crop Insurance Director)

TERMS AND CONDITIONS

1. *Citrus crops insured.* (a) The kinds of citrus insured shall be all varieties of oranges (including temple oranges which for all purposes under the contract shall be considered as mid-season oranges) grapefruit, and tangerines.

(b) Insurance for each crop year of the contract shall cover only citrus fruit that normally matures within such crop year and shall not cover any fruit on the trees which matures before August 1 of such crop year.

2. *Insurable acreage.* For each crop year of the contract, any acreage is insurable only if a coverage for such acreage is shown on the county actuarial table for that crop year. Acreage having a potential production for any crop year of less than 100 standard field boxes per acre is uninsurable for that crop year.

3. *Responsibility of insured to report acreage and interest.* For the initial crop year of the contract, the insured shall specify on his application all the insurable acres of citrus in the county in which he has an interest on the date of premium payment (see section 24 (e)) for such crop year and his interest in each such acreage. These data shall be revised by the insured on or before the date of premium payment for each succeeding crop year provided that the data on the application or latest revision are incorrect, to show the actual insurable acreage of citrus in which he has an interest on such date and his interest therein. If such data are not so revised for any crop year, the data on the latest revision or the application if there has been no revision, shall constitute the insured's report of his citrus acreage and his interest therein on the date of premium payment for such crop year.

4. *Insured acreage.* For each crop year of the contract the insured acreage with respect to each insurance unit shall be the insurable acreage of citrus in which the insured has an interest on the date of premium payment, as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect; *Provided, however,* That the insured acreage shall not include acreage in which the insured does not have an interest on the date insurance attaches.

5. *Insured interest.* For each crop year of the contract the insured interest in the citrus crops covered by the contract shall be the

insured's interest on the date of premium payment, as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided, however*, That such insured interest shall not exceed the insured's interest on the date insurance attaches. For the purpose of determining the amount of loss the insured interest shall not exceed the insured's actual interest at the time of damage.

6. *Coverage per acre.* (a) The coverage(s) per acre shall be the number of dollars established by the Corporation for the area in which the insured acreage is located, and will be shown on the county actuarial table on file in the county office.

(b) Where more than one coverage per acre is established for a county and shown on the county actuarial table, the amount of coverage elected by the insured shall be specified on the application for insurance. The insured may elect to change from one coverage to the other by so advising the Corporation in writing at the county office on or before the date of premium payment for the crop year the change is to become effective. *Provided, however*, That on any acreage the Corporation reserves the right to limit the amount of coverage per acre.

7. *Insurance period.* For any insured acreage insurance shall attach, subject to the provisions of section 19, on the first April 1 of each crop year or 12:00 o'clock noon of the 10th day after the date of premium payment (as defined in section 24 (e)) for such acreage for such crop year, whichever is later. *Provided, however*, That for the second and succeeding crop years of the contract if premium payment is made prior to the first June 1 of the crop year, insurance shall attach on the first April 1 of the crop year or 12:00 o'clock noon of the 2nd day after the date of premium payment for such acreage for such crop year, whichever is later. Insurance shall cease with respect to any portion of a citrus crop covered by the contract upon harvest but in no event shall the insurance remain in effect after June 30 of the calendar year following the year in which the insurance period begins.

8. *Causes of loss not insured against.* The contract shall not cover loss caused by (a) failure to follow recognized good grove practices, (b) failure properly and without unreasonable delay to care for, harvest, salvage, or market the insured citrus crops, (c) failure of a marketing agency or buyer to accept delivery of marketable fruit, (d) drought, (e) flood, (f) lightning, (g) fire, (h) excessive rain, (i) wildlife, (j) insect infestation, (k) plant disease, (l) normal dropping of fruit, (m) neglect or malfeasance of the insured or of any person in his household or employment or connected with the grove as caretaker, tenant or wage hand, or (n) any cause of loss other than freeze, hail, hurricane, or tornado; nor shall it cover damage to blossoms.

9. *Amount of annual premium.* (a) The annual premium for each insurance unit under the contract will be based upon (1) the insured acreage, (2) the applicable premium rate(s), and (3) the insured interest(s) in the citrus crop(s) on the date of premium payment for each crop year. The annual premium for the contract shall be the total of the premiums computed for the insured for all insurance units covered by the contract. The annual premium with respect to any insured acreage shall be regarded as earned on the beginning of the insurance period of each crop year.

(b) The insured's annual premium for any year may be reduced 25 percent if he has had seven consecutively insured citrus crops (immediately preceding the current crop year) without a loss for which an indemnity was paid. Nothing in this paragraph shall create in the insured any right to a reduced premium.

10. *Notice of loss or damage.* (a) Notice in writing shall be given the Corporation at

the county office within seven days after each material damage to the insured crop on any insurance unit from an insured cause. Such notice shall state the cause and date of damage.

(b) If notice is not given as required by this section, the Corporation reserves the right to reject any claim for indemnity.

11. *No abandonment.* There shall be no liability under the contract on any citrus crop or part thereof which is abandoned by the insured without a release by the Corporation. There shall be no abandonment of any crop or portion thereof to the Corporation.

12. *Proof of loss.* For each insurance unit on which a loss is claimed, the insured shall submit to the Corporation, on a form prescribed by the Corporation, such information regarding the manner and extent of the loss as may be required by the Corporation. This form containing such information shall be executed and submitted for each loss claimed within 90 days after the time of damage but in no event later than July 31 following the crop year in which the loss occurred, unless additional time is granted in writing by the Corporation. It shall be a condition precedent to any liability under the contract that the insured establish the amount of any loss for which claim is made, and that such loss is not due to an uninsured cause(s) and has been directly caused by one or more of the hazards insured against by the contract during the insurance period for the crop year for which loss is claimed.

13. *Insurance unit.* (a) An insurance unit means (1) all the insurable acreage of any one of the three citrus types (see (b) below) in the county in which the insured has 100 percent interest on the date of premium payment for the crop year, that is located on contiguous land under the same ownership, or (2) all the insurable acreage of any one of the three citrus types in the county in which two or more persons have 100 percent interest on the date of premium payment for the crop year, that is located on contiguous land under the same ownership, excluding any other acreage of citrus in which such persons do not have 100 percent interest on such date. Land rented for cash or for a fixed commodity payment shall be considered as owned by the lessee. Contiguous land shall include only land that is touching at any point except that land that is separated only by a public or private way shall be considered contiguous. For any crop year of the contract acreage shall be considered to be located in the county if a coverage is shown thereon on the county actuarial table.

(b) The three citrus types shall be:

Type 1. All varieties of early and mid-season oranges and all varieties of tangerines.

Type 2. All varieties of late oranges.

Type 3. All varieties of grapefruit.

14. *Amount of loss.* (a) Losses shall be determined separately for each insurance unit. The amount of loss with respect to any insurance unit shall be determined by multiplying the coverage for such unit by the average percent of damage for all citrus crop(s) on such unit, except that no loss shall be payable if the average percent of damage for the unit on the insured crop during the insurance period is less than 10 percent.

(b) The amount of coverage with respect to any insurance unit shall be determined by multiplying the insured acreage of citrus on such unit by the insured interest and the result by the applicable coverage per acre.

(c) The average percent of damage of fruit on any insurance unit shall be the ratio of the number of standard field boxes of fruit lost from an insured cause(s) to the total number of standard field boxes which was or would have been produced. The number of boxes which was or would have been produced shall include (1) fruit picked before the insured damage occurs, (2) fruit remaining on the trees after the damage occurs, (3)

fruit lost from the insured cause(s) of damage, and (4) any other fruit not included in items (1) through (3), including fruit lost from causes not insured against other than normal dropping. Fruit lost shall include any fruit which is unmarketable as fruit or for juice due to an insured cause(s) and the destroyed portion of any fruit which is partially damaged by freeze, as determined by the Corporation.

(d) Fruit shall not be considered as having been damaged from an insured cause(s) if the damage is partial except in the case of freeze where the fruit is not harvested (a) within seven days after the partial damage, and (b) until the fruit has reached the stage it can be established by the cut method that damage has occurred under the provisions of the succeeding subsection.

(e) Partial damage by freeze shall be determined as follows: (1) Unless marked dryness, determined by the cut method, extends at the stem end into all of the segments of the fruit more than one-half inch in the case of oranges and grapefruit or more than one-fourth inch in the case of tangerines, or unless there is an equivalent of these respective amounts by volume when occurring in other portions of the fruit, it shall be deemed that the insured has sustained no freeze damage, (2) in the case of oranges and grapefruit where such dryness so determined extends into all segments of the fruit beyond one-half inch at the stem end and not beyond the center cut, or there is an equivalent of this amount by volume when occurring in other portions of the fruit, it shall be deemed the insured has sustained a 50 percent damage to such fruit, and (3) if such dryness so determined extends at the stem end into all segments of the fruit beyond one-fourth inch in the case of tangerines, and beyond the center cut in the case of oranges and grapefruit, or there is an equivalent of these respective amounts by volume when occurring in other portions of the fruit, the fruit so damaged shall be considered totally destroyed. In cases where the Corporation can determine the extent to which marked dryness will develop because of (a) broken-down juice cells, (b) a mushy condition, (c) open spaces in the pulp or a combination of such evidence, fruit shall be considered as so damaged.

(f) The Corporation reserves the right in any case to delay settlement until the amount of damage can be determined.

(g) If the production from an insurance unit is commingled with the production from any other acreage and the insured fails to keep records satisfactory to the Corporation of the acreages involved and the production from each, the Corporation may (1) deny liability with respect to all insurance units involved for the crop year without affecting the insured's liability for premium(s), or (2) allocate the commingled production in such manner as it determines appropriate.

15. *Payment of indemnity.* (a) Any indemnity will be payable within thirty days after a claim for loss is approved by the Corporation, but if payment is delayed for any reason, the Corporation shall not be liable for interest or damage on account of such delay.

(b) If the insured dies, is judicially declared incompetent or disappears during an insurance period, any indemnity which is, or becomes, part of his estate shall be paid to the legal representative of the estate. Should no such representative be qualified, the Corporation may pay the indemnity to the person(s) it determines to be beneficially entitled thereto or to any one or more of such persons on behalf of all such persons, or may withhold payment until a legal representative of the estate is qualified. In such cases, and in any other case where an indemnity is claimed by a person(s) other than the original insured or diverse interests appear with respect to any insurance unit, the determination of the Corporation as to the

existence or non-existence of a circumstance in the event of which payment may be made and of the person(s) to whom such payment shall be made shall be final and conclusive. Payment of an indemnity shall constitute a complete discharge of the Corporation's obligations with respect to the loss for which such indemnity is paid.

16. *Transfer of interest.* (a) If the insured transfers all or a part of his insured interest in a citrus crop before the end of the insurance period the transferee upon written request made by the transferor will be entitled to the benefits of the contract, and subject to its terms and conditions, accruing after the transfer with respect to the interest so transferred. Any transfer shall be subject to any collateral assignment made by the original insured in accordance with section 17. However, the Corporation shall not be liable for a greater amount of indemnity in connection with the insured crop than would have been paid if the transfer had not taken place.

(b) If a transfer is effected in accordance with paragraph (a) above, the contract of the transferor shall cover the interest so transferred only to the end of the insurance period for the crop year during which the transfer is made.

17. *Collateral assignment.* The original insured may assign his right to an indemnity for any year under the contract by executing a form prescribed by the Corporation and upon approval thereof by the Corporation the interest of the assignee will be recognized and the assignee shall have the right to submit the loss notices and forms as required by the contract if the insured neglects or refuses to take such action.

18. *Records and access to grove.* The insured shall keep or cause to be kept, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all citrus produced on each insurance unit covered by the contract, and separate records showing the same information for production on any uninsured acreage in the county in which he has an interest. Any person(s) designated by the Corporation shall have access to such records and the grove(s) for purposes related to the contract.

19. *Life of contract, termination or cancellation thereof.* The contract shall be in effect for the first crop year specified on the application subject to the provisions of subsections (c) and (d) of this section, and shall continue in effect for each succeeding crop year subject to the provisions of subsections (a), (b), (c) and (d) of this section.

(a) The contract shall terminate if for any crop year the premium, computed on the basis of the insured's latest report of his citrus acreage, is not paid before the June 1 following the beginning of such crop year, such termination to become effective beginning with the crop year for which such premium is not paid. For the purpose of this section, any premium for which the insured has made arrangements for payment satisfactory to the Corporation shall be deemed paid.

(b) Cancellation may be made by either party giving written notice to the other party on or before the cancellation date which shall be the day preceding the beginning of the insurance period for the crop year for which the cancellation is to become effective. Any notice of cancellation by the insured shall be in writing and shall be filed with the county office. The Corporation shall mail any notice of cancellation to the insured's last known address and the mailing of such notice shall constitute notice to the insured.

(c) If the Corporation determines that the county minimum participation requirement established by the Federal Crop Insurance Act, as amended, is not met for any

crop year before the June 1 following the beginning of such crop year, insurance shall not be in effect for that crop year and the contract shall terminate.

(d) The contract shall terminate upon death or judicial declaration of incompetence of the insured, except that if such death or judicial declaration of incompetence occurs after the beginning of the insurance period in any crop year but before the end of the insurance period for such year, the contract shall terminate at the end of the latest insurance period for which insurance attached.

20. *Changes in contract.* The Corporation reserves the right to change the premium rate(s), insurance coverage(s), and other terms and provisions of the contract from year to year. Notice of such changes shall be mailed to the insured or placed on file in the county office by the March 1 preceding the beginning of the crop year for which such changes are to become effective and such mailing or filing shall constitute notice to the insured. Failure of the insured to cancel the contract as provided in section 19 shall constitute his acceptance of any such changes. If no notice is given, the terms and provisions of the contract for the prior year shall continue in force.

21. *Avoidance of contract.* The Corporation may void the contract without affecting the insured's liability for premium(s) or waiving any right or remedy including the right to collect any unpaid premium(s) if (a) at any time, either before or after loss, the insured has canceled or misrepresented any material fact or committed any fraud relating to the contract, or (b) the insured fails to give any notice or otherwise fails to comply with the terms of the contract at the time and in the manner prescribed. The Corporation may make such avoidance effective as of the beginning of any crop year with respect to which any act or omission referred to in (a) or (b) above occurred.

22. *Modification of contract.* No notice to any representative of the Corporation or knowledge possessed by any such representative or by any other person shall be held to effect a waiver of or a change in any part of the contract, or to estop the Corporation from asserting any right or power under such contract, nor shall the terms of such contract be waived or changed except as authorized in writing by a duly authorized representative of the Corporation; nor shall any provision or condition of this contract or any forfeiture be held to be waived by any delay or omission by the Corporation in exercising its rights and powers thereunder.

23. *Forms.* Copies of forms referred to in the contract are available at the county office.

24. *Meaning of terms.* For the purpose of the citrus insurance program:

(a) "County" means the area shown on the county actuarial table which may include groves located in a local producing area(s) bordering on the county.

(b) "County actuarial table" means the form(s) and related materials (including the crop insurance maps) which are approved annually by the Corporation and show the coverages per acre and the premium rates per acre applicable in the county.

(c) "County office" means the Corporation's office for the county shown on the application for insurance or such other office as may be specified by the Corporation from time to time.

(d) "Crop year" means the period beginning April 1 and extending through June 30 of the following calendar year and shall be designated by reference to the calendar year in which the insurance period begins.

(e) "Date of premium payment" means the date an official receipt is issued to the insured by an authorized representative of the Corporation acknowledging that pre-

mium payment has been received in the county office or that satisfactory arrangements for the payment of the premium have been approved by the county office.

(f) "Harvest" means (i) any severance of the fruit from the tree either by pulling or clipping or (ii) picking the marketable fruit from the ground.

(g) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

NOTE: The reporting and record-keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Adopted by the Board of Directors on January 30, 1956.

[SEAL] C. A. FRETTS,
Acting Secretary,
Federal Crop Insurance Corporation.

Approved on February 9, 1956.

MARVIN L. McLAIN,
Assistant Secretary.

[F. R. Doc. 56-1134; Filed, Feb. 13, 1956;
8:49 a. m.]

[Amdt. 3]

PART 424—BARLEY CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1956 AND SUCCEEDING CROP YEARS

APPLICATION FOR INSURANCE; THE POLICY

The above identified regulations (19 F. R. 9315, 20 F. R. 7637, 10023) are hereby amended, effective beginning with the 1956 crop year, as follows:

1. Section 424.3, as amended, is amended to read as follows:

§ 424.3 *Application for insurance.* Application for insurance on a form prescribed by the Corporation may be made by any person to cover his interest as landlord, owner-operator, or tenant, in a barley crop. For any crop year applications shall be submitted to the county office on or before the following applicable closing date preceding such crop year, except that in the states of Oregon and Washington an application for insurance may be filed until the February 28 following the closing date provided that in such cases winter barley will not be insured for the first crop year of the contract.

State and Closing Date

California, August 31.
Oregon, October 31.
Washington, October 31.
All other States, March 31.

2. Subsection (a) of section 13, as amended, of the policy shown in § 424.6 is amended by changing the phrase in the second sentence which reads, "the June 30 for Washington" to read, "the June 30 for Oregon and Washington".

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U. S. C. 1506, 1516. Interpret or apply secs. 507-509, 52 Stat. 73-75, as amended; 7 U. S. C. 1507, 1509)

Adopted by the Board of Directors on January 30, 1956.

[SEAL] C. A. FRETTS,
Acting Secretary,
Federal Crop Insurance Corporation.

Approved on February 9, 1956.

MARVIN L. McLAIN,
Assistant Secretary.

[F. R. Doc. 56-1136; Filed, Feb. 13, 1956;
8:49 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 997—FILBERTS GROWN IN OREGON AND WASHINGTON

SUBPART—ADMINISTRATIVE RULES AND REGULATIONS

PACK SPECIFICATIONS AND MINIMUM STANDARDS

Notice of proposed rule making regarding the modification of pack specifications and minimum standards for merchantable filberts, pursuant to the provisions of § 997.50 (d) of Marketing Agreement No. 115 and Order No. 97, as amended, regulating the handling of filberts grown in Oregon and Washington (7 CFR Part 997), was published in the FEDERAL REGISTER of January 26, 1956 (21 F. R. 590). In said notice it was proposed to modify the pack specifications set forth in § 997.50 (b) (1) and the minimum standards set forth in § 997.50 (b) (2) of the agreement and order, as amended, and the proposed modifications were specified in detail. Opportunity was afforded interested persons to submit to the Department written data, views, or arguments for consideration prior to issuance of the final rule in respect to such modification. No such documents have been received and the time specified for their submission has expired.

Therefore, after consideration of all relevant matters, the administrative rule and regulation is as follows:

§ 997.400 *Pack specifications and minimum standards.* In lieu of the requirements for pack specifications and minimum standards for merchantable filberts set forth in § 997.50 (b) (1) and (2) of the marketing agreement and order, as amended, regulating the handling of filberts grown in Oregon and Washington, such requirements shall, on and after February 14, 1956, be as follows:

(a) As to pack specifications, such filberts shall be "Oregon No. 1, Jumbo," "Oregon No. 1, Large," or "Oregon No. 1, Medium," as defined in Regulations Relating to Walnuts and Filberts, issued by the Oregon State Department of Agriculture, Salem, Oregon, in Administrative Order AD504, effective September 15, 1955;

(b) As to minimum standards of quality, shall be Oregon No. 1 grade as defined in the aforementioned regulations, and the lower limit of Medium size as defined in such regulations; and

(c) The changes provided for in this section, other than size, shall also apply

to the requirements for small size filberts for export set forth in § 997.50 (c), of said agreement and order, as amended.

It is hereby found and determined that good cause exists for making this administrative rule effective upon its publication in the FEDERAL REGISTER instead of waiting 30 days after publication for the reasons that: (1) It is desirable that the new requirements become effective as soon as practicable; and (2) the modifications herein provided have been generally discussed in the industry and persons affected thereby would not require additional time to make preparations for compliance.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 9th day of February 1956.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 56-1111; Filed, Feb. 13, 1956;
8:46 a. m.]

TITLE 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 130—PRIORITIES REGULATION

Notice is hereby given that the Atomic Energy Commission has adopted the following rules: These rules shall become effective thirty days after publication in the FEDERAL REGISTER.

GENERAL PROVISIONS

Sec.	Purpose.
130.1	Findings.
130.2	Definitions.
130.3	Computation of time.
130.4	Method of service.
130.5	

PRIORITIES

130.21	Residential priorities.
130.22	Commercial, industrial and nonprofit priorities.
130.23	Church priorities.
130.24	Other properties.

APPLICATION FOR AND EXERCISE OF PRIORITY RIGHTS

130.31	Applications for priority.
130.32	Exercise of priority.
130.33	Abandonment of priority.
130.34	Transfer of priority.
130.35	Nonimpairment of rights.
130.36	Limitation.
130.37	Persons applying for determinations or exercising priority.

DETERMINATIONS OF PRIORITY RIGHTS

130.41	Determination of priorities.
130.42	Determination of conflicting claims for priority.
130.43	Determination of seniority of employment or service.
130.44	Evaluation of conflicting claims.
130.45	Determination of seniority of occupancy of duplex houses.
130.46	Evidence.
130.47	Commission examination.

APPEAL PROCEDURE

130.51	Establishment of appeal boards.
130.52	Notice.
130.53	Appeal.
130.54	Classes of appeals.
130.55	Parties to appeal.
130.56	Grounds of appeal.
130.57	Recommended determination.

Sec.

130.58	Decision by Manager of Operations or his designee.
130.59	Appeals in cases determined by lot.
130.60	Finality.
130.70	Amendment.

AUTHORITY: §§ 130.1 to 130.70 issued under secs. 42, 111, 115, Pub. Law 221, 84th Cong.

GENERAL PROVISIONS

§ 130.1 *Purpose.* This part establishes, pursuant to the provisions of the act, particularly section 42 thereof, priority rights applicable to the sale of government-owned property offered for disposal at Oak Ridge, Tennessee, and Richland, Washington, pursuant to the provisions of Chapter 5 of the Atomic Energy Community Act of 1955.

§ 130.2 *Findings.* (a) The Commission has determined that the priorities established in this part are reasonable and fair, will be uniform in each class or subclass of property, and will give such priority rights to occupants, project-connected persons, and incoming employees as are necessary or desirable and such priority rights to former occupants, former project-connected persons, or inhabitants as are fair and equitable. In establishing these priorities the Commission has given due consideration to the following factors:

- (1) The retention and recruitment of personnel essential to the atomic energy program;
- (2) The minimization of dislocations within the community;
- (3) The expeditious accomplishment of the disposal program; and
- (4) The desirability of encouraging private firms to locate or remain in the community.

§ 130.3 *Definitions.* As used in this part:

(a) "Act" means the Atomic Energy Community Act of 1955 (69 Stat. 471), including any amendments thereto.

(b) "Commission" means the Atomic Energy Commission or any authorized officer or employee thereof. For purposes of determining seniority under § 130.43, "Commission" shall include the Manhattan Engineer District, U. S. Army Corps of Engineers.

(c) "Community" means:

(1) With respect to property at Oak Ridge, that area at Oak Ridge, Tennessee, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Oak Ridge, Tennessee", bearing the legend "Boundary Line, Minimum Geographic Area, Oak Ridge, Tennessee", and marked "Approved, 21 April 1955, K. D. Nichols, General Manager"; or

(2) With respect to property at Richland, that area at Richland, Washington, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Richland, Washington", bearing the legend "Boundary Line, Minimum Geographic Area, Richland, Washington", and marked "Approved, 21 April 1955, K. D. Nichols, General Manager".

(d) "Property management contractor" means the contractor managing, on behalf of the Commission, the Commission-owned properties at the community.

On November 1, 1955, the property management contractor at Oak Ridge was Management Services, Inc., and at Richland was General Electric Company.

(e) "Occupant" means a person who, on the date on which the property in question is first offered for sale, is entitled to residential occupancy of the government-owned house in question, or of a family dwelling unit in such house, in accordance with a lease or license agreement with the Commission or its property management contractor, but shall not include a sublessee or assignee of such government-owned house.

(f) "Resident" means any person who, on the date on which the property in question is first offered for sale, is either:

(1) A person who is entitled under a lease or license with the Commission or its community management contractor to residential occupancy of government-owned accommodations at the community, or property designated for sale pursuant to Chapter 5, or

(2) A project-connected person who is entitled, in accordance with a lease or similar agreement, to residential occupancy of privately-owned rental housing in the community.

(g) "Member of his family" means any person having the following relationship to an occupant (including those having the same relationship through marriage or legal adoption): spouse, father, mother, grandfather, grandmother, brother, sister, son, daughter, uncle, aunt, nephew, niece, or first cousin.

(h) "Project area" means that area which on August 4, 1955, constituted the Federal area at Oak Ridge, Tennessee (in the case of property at Oak Ridge), or Richland, Washington (in the case of property at Richland).

(i) "Project-connected person" means any person who, on the date the property in question is first offered for sale, is regularly employed at the project area in one of the following capacities:

(1) An officer or employee of the Commission or any of its contractors or subcontractors, or of the United States or any agency thereof (including members of the Armed Forces), or of a State or political subdivision or agency thereof;

(2) An officer or employee employed at a school or hospital located in the project area;

(3) A person engaged in or employed in the project area by any professional, commercial, or industrial enterprise occupying premises located in the project area; or

(4) An officer or employee of any church or non-profit organization occupying premises located in the project area.

(j) "Senior occupant" means that one of the occupants of a family dwelling unit in the government-owned duplex house in question who has the longer continuous occupancy, computed as provided in § 130.45, in the duplex house.

(k) "Junior occupant" means that one of the occupants of a family dwelling unit in the government-owned duplex house in question who has the shorter continuous occupancy, computed as pro-

vided in § 130.45, in the duplex house.

(l) "Retired former resident" means any person, other than an occupant, resident or project-connected person, who

(1) Having been employed at the project area in one of the capacities set forth in the definition of project-connected person, retired, at any time prior to the date the property in question is first offered for sale, from such employment in accordance with the retirement plan established by his employer; and

(2) At the time of such retirement was either (i) entitled, in accordance with a lease or license agreement with the Commission or its community management contractor, to residential occupancy of government-owned accommodations at the community, or property designated for sale pursuant to Chapter 5, or (ii) entitled, in accordance with a lease or similar agreement, to residential occupancy of privately owned rental housing of the community.

(m) "Inhabitant" means a person who owned real property in the project area at Oak Ridge on October 6, 1942, or in the project area at Richland on December 31, 1943.

(n) "Person" means any individual, corporation, partnership, firm, or association.

(o) "Sales agency" means the agency of the Federal Government which is responsible for disposal of property offered pursuant to Chapter 5 of the act.

(p) "Successful claimant" means the person whom the Commission has initially determined to be entitled to purchase a particular piece of property through the exercise of a priority right.

(q) "Contract to purchase" means an agreement (which can be made only by a priority purchaser) to purchase a single-family or duplex house under the terms of which the purchaser agrees to:

(1) Conclude the purchase within three years after the date of the agreement, and

(2) Make regular periodic payments (during the three-year period) on account of principle, interest, and for municipal services.

§ 130.4 *Computation of time.* Except as otherwise provided in § 130.44, in computing any period of time prescribed or allowed by this part, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of any period prescribed or allowed by the part is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period will be extended until the end of the next day which is neither a Saturday, Sunday or a legal holiday.

§ 130.5 *Method of service.* All document or information required to be furnished by priority holders must be postmarked or actually received by the appropriate agency prior to the expiration of the period of time prescribed or allowed by this part.

PRIORITIES

§ 130.21 *Residential priorities.* The following rights of priority shall be applicable in the sale of property for private residential use:

(a) For government-owned single family houses:

- (1) First priority; the occupant.
- (2) Second priority; any resident.
- (3) Third priority; any project-connected person.
- (4) Fourth priority; any retired former resident.
- (5) Fifth priority; any inhabitant.

(b) For government-owned duplex houses:

- (1) First priority; the senior occupant.
- (2) Second priority; the junior occupant.

(3) Third priority; a junior occupant of any duplex house who has been prevented from exercising his second priority by reason of the exercise of the first priority by the senior occupant.

- (4) Fourth priority; any resident.
- (5) Fifth priority; any project-connected person.

(6) Sixth priority; any retired former resident.

(7) Seventh priority; any inhabitant.

(c) For vacant lots classified for residential use, not under lease or license agreement:

- (1) First priority; any resident.
- (2) Second priority; any project-connected person.

(3) Third priority; any retired former resident.

(4) Fourth priority; any inhabitant.

(d) For lots and acreage classified for residential use under lease or license agreement on which there is no government-owned building.

(1) First priority; any person who on the date the property in question is first offered for sale is entitled to occupancy of the premises offered for sale in accordance with a lease or license agreement with the Commission or its property management contractor authorizing the use of the premises for residential purposes.

§ 130.22 *Commercial, industrial and nonprofit priorities.* In the sale of property classified for commercial or industrial use, or for use of nonprofit organizations (other than churches), any person who, on the date such property is first offered for sale, is entitled to occupancy of the property offered for sale or a part thereof in accordance with a lease or license agreement with the Commission or its property management contractor, authorizing the use of the property for commercial, industrial or nonprofit use, shall have a priority to purchase the property offered for sale.

§ 130.23 *Church priorities.* In the case of property classified for use of churches, any person who, on the date such property is offered for sale, is entitled to occupancy thereof in accordance with a lease or license agreement with the Commission or its property management contractor, authorizing the use of the premises for church use, shall have a priority to purchase the property offered for sale.

§ 130.24 *Other properties.* In the case of any property not covered by the foregoing §§ 130.21 to 130.23, inclusive, no priority rights are conferred under this part.

APPLICATION FOR AND EXERCISE OF PRIORITY RIGHTS

§ 130.31 Applications for priority.

(a) All priority rights within each priority class, other than rights under § 130.21 (a) (1), shall be invalid unless an application for the determination thereof, in the form prescribed by the Commission, is filed with the Commission within 30 days after the date on which the property in question is offered for sale to such priority class.

(b) No application need be filed for priority rights under § 130.21 (a) (1).

(c) Notice of the offering for sale will be given by the sales agency. Such notice will:

- (1) Be in such manner as the sales agency shall prescribe;
- (2) Identify the property to be sold;
- (3) State the terms and conditions of sale and the date of the offer; and
- (4) State which rights of priority must be exercised.

§ 130.32 Exercise of priority. The sales agency shall prescribe the manner and time within which a priority right that has been determined by the Commission shall be exercised: *Provided, however,* That the time for exercise of priority rights of occupants of single family houses and senior occupants of duplex houses shall be not less than 90 days after the date the property in question is first offered for sale to such persons.

§ 130.33 Abandonment of priority. (a) Any priority right other than a priority for church property which has been exercised as prescribed by the sales agency shall, as to such priority, be deemed abandoned unless the priority purchaser concludes the sale or executes the contract to purchase:

- (1) Within 60 days after tender by the sales agency of a deed or contract to purchase, or
- (2) Prior to expiration of the period prescribed for exercise of such priority, whichever is later.

(b) Any right of priority to purchase church property, shall be deemed abandoned unless within six months after a tender by the sales agency of a deed the priority purchaser concludes the sale.

(c) In all cases covered by this section, such time may for good cause be extended by the sales agency.

§ 130.34 Transfer of priority. (a) No priority established hereunder shall be transferable except:

- (1) A husband and wife may exercise a priority in their joint names.
- (2) A religious organization may exercise the occupant's priority which would otherwise belong to its priest, minister or rabbi, regardless of whether that position happens to be filled at the time of the exercise of the priority.

(3) Two or more holders of priorities, granted pursuant to § 130.21 (b) (1) and (2), or § 130.22, having a common interest in the same building or location, may assign to a single assignee (who may be a priority holder) their rights of priority to purchase such building or location.

§ 130.35 Nonimpairment of rights. No priorities determined or exercised

hereunder shall impair any rights, including purchase rights, conferred by existing leases and covenants. In the event the Commission finds that such rights would be impaired, it may, notwithstanding any other provisions of this part, cancel the priority or priorities or take such other action as it deems appropriate.

§ 130.36 Limitation. (a) No person or married couple shall be entitled to purchase more than one parcel of residential property through the exercise of a priority. For purposes of this section, any purchase by a husband or wife shall be deemed a purchase by the married couple, and a purchase by a transferee shall be deemed a purchase by the transferor as well.

(b) Notwithstanding any other provision of this part, lessees of residential property comprehended by section 57 (a) of the act purchasing such property pursuant to an offering thereof by the Commission or the sales agency under authority of section 57a of the act, shall have no residential priority under this part.

§ 130.37 Persons applying for determinations or exercising priority. Application for the determination of a priority or the exercise thereof may be executed and filed by the priority holder or, on his behalf, by his duly authorized agent, executor, trustee, administrator, or guardian.

DETERMINATIONS OF PRIORITY RIGHTS

§ 130.41 Determination of priorities. All priority rights shall be determined by the Commission and certified by it to the sales agency.

§ 130.42 Determination of conflicting claims for priority. (a) Conflicting claims between persons within the same priority class for priority to purchase a particular piece of property shall be determined in accordance with this section and §§ 130.43 through 130.47, as follows:

(1) Conflicting claims for priority to purchase residential property within the same priority group as a junior occupant, resident, or project-connected person, shall be resolved on the basis of seniority of employment in accordance with §§ 130.43 and 130.44.

(2) Conflicting claims for priority to purchase a duplex house by a senior occupant shall be resolved on the basis of seniority of occupancy in accordance with § 130.45.

(3) Conflicting claims for priority to purchase residential property as a retired former resident or inhabitant shall be resolved by the Commission by lot.

(4) Conflicting claims for priority to purchase property classified for commercial, industrial or nonprofit use shall be resolved as follows: From among the conflicting priority holders the Commission shall draw lots until all such priority holders have been ranked. The first name chosen shall have the first opportunity to exercise the priority with regard to the property in question. In the event the person first chosen fails to exercise the priority within the time established by the sales agency or abandons the priority as provided in § 130.33, each succeeding priority holder in ac-

cordance with his ranking as determined by the drawing shall, subject to the same conditions, have the priority to purchase the property in question.

(b) Except as provided in subparagraph (4) of paragraph (a) of this section and in §§ 130.51 to 130.60, all priority rights of unsuccessful claimants to purchase the particular piece of property which is the subject of conflicting claims shall lapse upon the determination by the Commission of the successful claimant.

§ 130.43 Determination of seniority of employment or service. Seniority of employment or service shall be determined as of the date any residential property was first offered for sale by adding the periods of employment or service of the claimant, whether or not consecutive, within the following categories:

(a) Employment or service periods of not less than four consecutive weeks at not less than 20 hours per week at the project area at Oak Ridge (in the case of a claim for priority at Oak Ridge) or Richland (in the case of a claim for priority at Richland) of a claimant by or for:

- (1) A contractor or lower tier contractor of the Commission;
- (2) The Commission, the United States or any agency thereof (including the Armed Forces) or the State or any political subdivision or agency thereof;
- (3) A school or hospital;
- (4) Any professional, commercial, or industrial enterprise;
- (5) A church or nonprofit organization.

(b) Self-employment periods of a claimant for a minimum of four consecutive weeks at not less than 20 hours per week at the project area at Oak Ridge (in the case of a claim for priority at Oak Ridge), or Hanford (in the case of a claim for priority at Hanford), in one of the capacities listed in subparagraphs (1) and (4) of paragraph (a) of this section.

(c) Service in the Armed Services of the United States when claimant entered the Armed Services within 30 days after leaving any employment set forth in the definition of project-connected person.

§ 130.44 Evaluation of conflicting claims. In determining seniority of employment or service, the Commission shall apply the following rules:

(a) The first and last date of each period of employment or service shall be included.

(b) As between claimants employed or discharged at different times during the same day, no seniority of employment or service shall be granted to a claimant by virtue of being first employed or last discharged on such day.

(c) No deduction from periods of employment or service computed in accordance with § 130.48 shall be made for periods of employment or service off the project area when the claimant was or is maintained on and paid from a payroll of an employer located at the project area and such claimant was or is compensated for such period as an employee in travel status in accordance with the recognized practice of such employer.

(d) If a husband and wife exercise a priority in their joint names as provided in § 130.34, only the seniority of the husband or wife, whichever is greater, shall be counted.

(e) In the case of identical claims of seniority of employment or service, the successful claimant shall be determined by lot.

§ 130.45 *Determination of seniority of occupancy of duplex houses.* (a) In determining which of the occupants of a duplex house is the senior occupant,

(1) Occupancy of either dwelling unit in the house shall be counted in determining the period of continuous occupancy;

(2) The period of continuous occupancy shall be that period during which the occupant or a person who then was a member of his family continued without interruption to be entitled to such residential occupancy in accordance with a lease or license agreement with the Commission or its community management contractor. Such period shall begin with the effective date of the initial lease or license agreement and end with the date on which the property is first offered for sale; and

(3) In the case of claimants whose initial lease or license bears the same effective date, determination shall be made by lot.

§ 130.46 *Evidence.* (a) Claimants shall support their claims to seniority by listing in the space and manner provided on the application prescribed by the Commission, all claimed periods of employment or service coming within § 130.43. The Commission, in determining seniority of a claimant, need not consider any employment or service unless the same is so listed.

(b) At the request of the Commission, any claimant shall furnish such evidence in support of his claim to priority or seniority, at such times and in such form, as the Commission shall specify. In the event of failure to furnish the specified evidence, at the time and in the form requested, the Commission may take such action as it deems appropriate, including the disallowance of the claim or part thereof to which such evidence relates.

§ 130.47 *Commission examination.* The Commission may make such independent examination of the submitted claims to priority or seniority as it deems appropriate.

APPEAL PROCEDURE

§ 130.51 *Establishment of appeal boards.* The Commission's Manager of Operations at each community shall establish an advisory board to consider appeals relating to priorities at the community. The board may adopt such procedures, consistent with this part, as it deems appropriate to carry out its functions.

§ 130.52 *Notice.* (a) With respect to each offering of property to persons in a priority class, other than persons in the priority class granted by § 130.21 (a) (1), the Commission shall post, at one or more places in the community, a notice

stating the person whom the Commission has initially determined to be the successful claimant with regard to property offered for disposal.

(b) In all cases in which claims to seniority have been filed pursuant to § 130.42, the notice shall include the total period of seniority allowed by the Commission in making its initial determination.

(c) Upon request by any person whose claim to a priority or to seniority has been disallowed, in whole or in part, the Commission shall advise such person of the reasons for such disallowance.

§ 130.53 *Appeal.* (a) Appeals from the initial determinations of the Commission in cases coming within § 130.52 must be filed in writing with the Commission's Manager of Operations at the community not later than ten days after the posting of the notice referred to in § 130.51.

(b) Any person who had attempted to exercise a right of priority under § 130.21 (a) (1) within the time prescribed by the sales agency, and has been notified by the sales agency that his rights had not been certified by the Commission pursuant to § 130.41, may within ten days after the receipt of such notice, file an appeal in the manner prescribed in paragraph (a) of this section.

(c) Appeals shall specify the bases for the appeal and the nature of the evidence to be produced.

§ 130.54 *Classes of appeals.* (a) Appeals with respect to all priorities except those established for retired former residents and inhabitants and those established under § 130.22 shall be governed by §§ 130.55 to 130.58.

(b) Appeals with respect to priorities established under § 130.21 for retired former residents and inhabitants and to priorities established under § 130.22 shall be governed by § 130.59.

§ 130.55 *Parties to appeal.* Appeals in cases coming within § 130.54 (a) may be filed by any person if:

(a) Assuming the appellant were to prevail as to the matters stated in his appeal, he would have a superior claim to that of the successful claimant to the property in respect of which the appeal is filed; and

(b) The appellant is not the successful claimant to another property offered to the priority class in question.

§ 130.56 *Grounds of appeal.* A person eligible to file an appeal under § 130.55 may appeal as to one or more of the following issues:

(a) His right or the right of the successful claimant to a priority of the class to which the property has been offered;

(b) His period of occupancy or the period of occupancy of the successful claimant, in the case of occupants of duplex houses; and

(c) His periods of seniority of employment or service, or the periods of seniority of employment or service of the successful claimant.

§ 130.57 *Recommended determination.* In the case of appeals coming within § 130.54 (a) the Board may recommend:

(a) Dismissal of any appeal which is not in accordance with the provisions of this part or which is not supported by sufficient evidence;

(b) Affirmance of the initial determination; or

(c) Determination in favor of that one of the conflicting claimants to the property in question, whether or not such claimant has filed an appeal, whom it finds to be entitled to a priority to purchase the property in question: *Provided, however,* That the Board shall disregard all claims of persons who are the successful claimants to any other property offered to the priority class in question, and may disregard the claims of any person who fails to file within the time prescribed by the Board any appearance or evidence requested by the Board.

§ 130.58 *Decision by Manager of Operations or his designee.* The recommendation of the Board will be submitted to the Manager of Operations or his designee, and such Manager or designee shall determine the claimant entitled to exercise a priority with regard to the property in question. The Manager or his designee may remand any matter to the Board for further consideration and recommendation prior to final determination.

§ 130.59 *Appeals in cases determined by lot.* (a) In cases coming within § 130.54b any person may appeal if:

(1) Assuming the appellant were to prevail as to the matters stated in his appeal, he would establish that the successful claimant is not entitled to a priority of the class to which the property had been offered or that the appellant was improperly denied such a priority; and

(2) In cases of priorities for former retired residents or inhabitants, the appellant is not the successful claimant to another property offered to the priority class in question.

(b) If the Board determines that the person initially determined to be the successful claimant is not entitled to a priority of the class in question, it shall recommend that the initial determination be set aside.

(c) If the Manager or his designee determines that the initial determination shall be set aside, the commission shall:

(1) In the case of claims of retired former residents or inhabitants, resolve the remaining conflicting claims by lot, provided that the claims of persons who are the successful claimants as to any other property offered to the priority class in question shall be disregarded;

(2) In the case of claims under § 130.22, award the property to the next succeeding priority holder, according to his ranking.

(d) No appeal shall lie from a redetermination made pursuant to paragraph (c) of this section.

(e) If the Board determines that the appellant was improperly denied a priority of the class to which the property in question was offered, the Board shall so report to the Manager or his designee, who shall take such action as may appear equitable.

§ 130.60 *Finality.* An initial determination which is not appealed in ac-

cordance with this part and a determination or decision by the Manager of Operations or his designee shall be final.

§ 130.70 *Amendment.* The Commission may amend the provisions of this part.

Dated at Washington, D. C., this 31st day of January 1956.

K. E. FIELDS,
General Manager.

[F. R. Doc. 56-1176; Filed, Feb. 13, 1956;
9:55 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 54022]

PART 22—DRAWBACK

MERCHANDISE TRANSFERRED TO A FOREIGN- TRADE ZONE FROM CUSTOMS TERRITORY

Part 22, Customs Regulations, amended to prescribe regulations under which merchandise taken into a foreign-trade zone for the sole purpose of exportation, destruction, or storage shall be considered exported for drawback purposes.

Under the fourth proviso to section 3 of the Act of June 18, 1934, as amended by section 1 of the Act of June 17, 1950 (19 U. S. C. 81c), relating to foreign-trade zones, articles which have been taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage, are considered to be exported for the purpose of the drawback provisions of the Tariff Act of 1930, as amended, and the regulations thereunder.

On October 4, 1955, a notice of proposed rule making relative to the issuance of regulations under the proviso referred to above was published in the *FEDERAL REGISTER* (20 F. R. 7372). After consideration of such relevant suggestions as were presented in regard thereto, the following regulations are hereby adopted:

Part 22 of the Customs Regulations is amended as follows:

1. Sections 22.36, 22.37, 22.38, 22.39, and 22.40 are redesignated §§ 22.41, 22.42, 22.43, 22.44, and 22.45, respectively.

2. Footnote 16, appended to the centerhead "General Regulations Applicable to all Drawback Claims" above redesignated § 22.41, is redesignated footnote 17.

3. After § 22.35 a new centerhead is inserted reading as follows: "Merchandise Transferred to a Foreign-Trade Zone from Customs Territory".

4. New §§ 22.36, 22.37, 22.38, 22.39, and 22.40 are inserted reading as follows:

- Sec.
22.36 Drawback allowance.
22.37 Articles manufactured or produced in the United States.
22.38 Merchandise transferred to a foreign-trade zone from continuous customs custody.
22.39 Rejected merchandise.
22.40 To whom payable.

AUTHORITY: §§ 22.36 to 22.40 issued under secs. 313.624, 46 Stat. 693, as amended, 759;

19 U. S. C. 1313, 1624. Interpret or apply sec. 3, 48 Stat. 999, as amended; 19 U. S. C. 81c.

§ 22.36 *Drawback allowance.* (a) Drawback of duties and taxes shall be allowed on merchandise transferred to a foreign-trade zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage under the fourth proviso to section 3 of the act of June 18, 1934, as amended (19 U. S. C. 81c), subject to compliance with §§ 22.37 to 22.40, inclusive.

(b) Such merchandise shall be given status as zone-restricted merchandise on proper application as prescribed in § 30.10 of this chapter.

§ 22.37 *Articles manufactured or produced in the United States.* (a) The procedure prescribed in this part as to the filing of an application for a rate of drawback and other required documents shall be followed, so far as applicable, in filing claims for drawback under the fourth proviso to section 3 of the act of June 18, 1934, as amended (19 U. S. C. 81c), on articles manufactured or produced in the United States with the use of imported or substituted merchandise, and on flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced with the use of domestic tax-paid alcohol, except that notices of transfer on customs Form 7513 shall be filed in lieu of notices of exportation on customs Form 7511.

(b) Notices of transfer on customs Form 7513 shall be filed in triplicate with the collector of customs at the port where the foreign-trade zone is located. Each notice shall show the number and location of the foreign-trade zone to which the articles are to be transferred, the number and kind of packages and their marks and numbers, the description of the articles and their weight (gross and net), gauge, measure, or number, the name of the transferor, and the name of the port where the drawback entry is to be filed.

"* * * Provided further, That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of:

"(a) The drawback, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder; and

"(b) The statutes and bonds exacted for the payment of drawback, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.

"Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of paragraph 1615 (f) of section 1201 of this title: * * * (19 U. S. C. 81c.)

(c) The notice of transfer shall be filed with the collector prior to the transfer of the articles to the zone, or within 3 years after receipt of the articles in the zone and, if filed after the transfer, shall state the foreign-trade zone lot number.

(d) The collector shall assign a number to each notice of transfer. After numbering, one copy of the notice shall be returned to the transferor for subsequent filing with the drawback entry. After the articles have been received in the zone, the customs officer at the zone shall certify on the copy of the notice of transfer received from the collector as to the receipt of the articles in the zone and forward the notice to the transferor, or the person designated by the transferor, for subsequent filing with the drawback entry. Prior to filing such certified copy with the drawback entry, the transferor shall obtain thereon the foreign-trade zone operator's certification as to the receipt of the articles in the zone.

(e) Drawback entries shall be filed on customs Forms 7573, 7575-A, 7575-B, 7579, or 7583, as applicable, modified to indicate that the merchandise was transferred to a foreign-trade zone and the "Declaration of Exportation" shall be amended to read as follows:

DECLARATION OF TRANSFER TO A FOREIGN-TRADE ZONE

I, _____
(Member of firm, officer representing
corporation, agent, or attorney)

of _____
declare that, to the best of my knowledge and belief, the particulars of transfer stated in this entry, the notices of transfer, and receipts are correct, and such merchandise was transferred to a foreign-trade zone for the sole purpose of exportation, destruction, or storage, and is not to be returned to customs territory of the United States for domestic consumption.

(Transferor or agent)

Date _____

§ 22.38 *Merchandise transferred to a foreign-trade zone from continuous customs custody.* (a) The procedure prescribed in §§ 22.27 to 22.30, inclusive, shall be followed, so far as applicable, in filing claims for drawback on merchandise transferred to a foreign-trade zone from continuous customs custody. Prior to the transfer of such merchandise, the importer, or a person designated in writing by the importer for the purpose, shall file with the collector an entry in duplicate on customs Form 7541. After the merchandise has been received in the zone, the customs officer at the zone shall certify on the copy of Form 7541 received from the collector as to the receipt of the merchandise in the zone and forward it to the transferor, or the person designated by the transferor, to obtain thereon the foreign-trade zone operator's certification as to the receipt of the articles in the zone, in lieu of the bill of lading required by § 22.29 (d), and re-submit the copy to the collector.

(b) Customs Form 7541 shall be modified to indicate that the merchandise is to be transferred to a foreign-trade zone and shall bear an endorsement in the following form, to be placed thereon by

the transferor, for execution by the foreign-trade zone operator:

RECEIPT OF FOREIGN-TRADE ZONE OPERATOR

The merchandise described in this entry was received from _____ on _____, 19____, in Foreign-Trade Zone No. _____, (City and State)

Exceptions: _____
By _____
(Name of operator)
(Name and title)

The "Exporter's Declaration" on Form 7541 shall be amended to read as follows:

TRANSFEROR'S DECLARATION

I, _____, one of the firm of _____, declare that the merchandise described in this entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it is to be transferred to Foreign-Trade Zone No. _____, located at _____, (City and State) for the sole purpose of exportation, destruction, or storage, and is not to be returned to customs territory of the United States for domestic consumption. I further declare that, to the best of my knowledge and belief, this merchandise is the same in quantity, quality, value, and package, unavoidable wastage and damage excepted, as it was at the time of importation; that no allowance nor reduction of duties has been made for damage or other cause except as specified in this entry; and that no part of the duties paid has been refunded by way of drawback or otherwise.

Date _____
(Transferor)

§ 22.39 *Rejected merchandise.* (a) The procedure prescribed in §§ 22.31 to 22.35, inclusive, shall be followed, so far as applicable. The importer or a person designated in writing by the importer for the purpose shall file with the collector, prior to the transfer of any merchandise to a foreign-trade zone, an entry in duplicate on customs Form 7539. The procedure shall be the same, so far as applicable, as that governing the transfer of merchandise to a foreign-trade zone from continuous custody (§ 22.38).

(b) Customs Form 7539 shall be modified to indicate that the merchandise is to be transferred to a foreign-trade zone and shall bear an endorsement, to be executed by the foreign-trade zone operator, of a receipt as provided for in § 22.38 (b). The "Exporter's Declaration" on Form 7539 shall be amended to read as follows:

TRANSFEROR'S DECLARATION

I, _____, one of the firm of _____, declare that the merchandise described in the within entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it is to be transferred to Foreign-Trade Zone No. _____, located at _____, (City and State) for the sole purpose of exportation, destruction, or storage, and is not to be returned to customs territory of the United States for domestic consumption. I further declare that, to the best of my knowledge and belief, the said merchandise is the same in quantity, quality, value, and pack-

age as specified in this entry; that no allowance nor reduction in duties has been made; and that no part of the duties paid has been refunded by way of drawback or otherwise.

Date _____
(Transferor)

§ 22.40 *To whom payable.* The person named in the foreign-trade zone operator's receipt on the notice of transfer or the drawback entry, as the case may be, shall be held to be the transferor. The drawback shall be paid to the transferor or to the person to whom the transferor shall direct in writing that such drawback be paid.

These regulations shall be effective as to merchandise taken into a foreign-trade zone on and after April 1, 1956.

Customs Form 7513 will be printed at the earliest practicable date and made available for purchase by interested parties from collectors of customs. Collectors shall requisition this form in the usual manner. Pending the printing of this form and its availability for purchase by interested parties, customs Form 7511 may be used and appropriately modified to suit the circumstances of the case.

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: February 7, 1956.

DAVID W. KENDALL,
Acting Secretary of the Treasury.
[F. R. Doc. 56-1115; Filed, Feb. 13, 1956;
8:46 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 116—SOUTHEASTERN ALASKA AREA FISHERIES OTHER THAN SALMON

MISCELLANEOUS AMENDMENTS

Basis and purpose: On the basis of good recruitments in certain herring populations in Southeastern Alaska, it has been determined that the following changes in regulations with respect to herring fishing are consistent with sound conservation. It has been further determined that additional shrimp fishing can be permitted in Southeastern Alaska without endangering the stocks.

The seasons involved are imminent; therefore, effective immediately upon publication in the FEDERAL REGISTER:

1. Section 116.6b is amended to read as follows:

§ 116.6b *Restricted near Sitka.* Fishing is restricted (a) to 125 short tons for bait only in Silver Bay east of 135 degrees 15 minutes west longitude, and (b) to fishing for bait or with gill nets in Krestof and Sitka Sounds east of a line extending from Cape Edgecumbe to Point Woodhouse on Biorka Island, and thence to the eastern extremity of Elovot Island.

2. Section 116.6c is amended to read as follows:

§ 116.6c *Restricted near Craig.* Fishing is restricted to a take of 125 short tons for use as bait, in waters surround-

ing Fish Egg Island north and east of a line from Cape Flores to Point Amargura, and thence to Point Ildefonso.

3. Section 116.7 is amended to read as follows:

§ 116.7 *Restricted in northern waters.* Fishing, except for bait and except by gill nets, is prohibited within (a) Icy Strait and Cross Sound, (b) Chatham Strait and Lynn Canal north of a line from South Passage Point to Marble Bluff, and (c) Stephens Passage north of a line from Point Arden to Bishop Point.

4. Section 116.8b is amended to read as follows:

§ 116.8b *Herring quotas.* The take of herring, except for bait and except by gill nets, shall not exceed 17,500 short tons, of which not more than 6,250 short tons may be taken off the west coasts of Chichagof and Baranof Islands in an area bounded by a line due west from Cape Bingham; a line across Peril Strait at Kakul Narrows; and a line from Cape Ommaney to Nation Point on Coronation Island.

5. Section 116.10 is amended in text by deleting "February 15" and substituting in lieu thereof "March 1" effective in 1956 only.

Since immediate action is necessary, notice and public procedure on this amendment are impracticable (60 Stat. 237; 5 U. S. C. 1001 et seq.).

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

JOHN L. FARLEY,
Director.

FEBRUARY 10, 1956.

[F. R. Doc. 56-1182; Filed, Feb. 13, 1956;
11:11 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XIV—General Services Administration

[Revision 3, Amdt. 7]

REG. 7—MICA REGULATION: PURCHASE PROGRAMS FOR DOMESTIC MICA

PRICES AND PAYMENT

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F. R. 4939), as amended, this regulation, as revised and amended, is hereby further amended as follows:

In section 5 (e) (3), delete the date "February 14, 1956", and in lieu thereof substitute the date "May 14, 1956".

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. 2154. Interprets or applies sec. 303, 64 Stat. 801, as amended, sec. 3, 67 Stat. 417, 50 U. S. C. App. 2093, 2182)

All other provisions of this regulation shall remain in full force and effect.

This amendment is effective immediately.

Dated: February 10, 1956.

EDMUND F. MANSURE,
Administrator.

[F. R. Doc. 56-1197; Filed, Feb. 13, 1956;
11:54 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 31]

EMPLOYMENT TAXES; APPLICABLE ON OR
AFTER JANUARY 1, 1955

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 3121 (i), 3121 (k), and 7805 of the Internal Revenue Code of 1954 (68A Stat. 425, 427, 917; 26 U. S. C. 3121 (i), 3121 (k), 7805). Regulations under chapters 22 to 25, inclusive, and under those administrative provisions of subtitle F of the Code which have special application in respect of the taxes imposed by subtitle C of the Code will be separately published.

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

The following regulations which, except where otherwise specifically provided, are applicable on and after January 1, 1955, are hereby prescribed with respect to the taxes imposed by subtitle C (chapters 21 to 25, inclusive) of the Internal Revenue Code of 1954, as amended:

Subpart A—Introduction

- Sec.
31.0-1 Introduction.
31.0-2 General definitions and use of terms.
31.0-3 Scope of regulations.
31.0-4 Extent to which the regulations in this part supersede prior regulations.

Subpart B—Federal Insurance Contributions Act
(Chapter 21, Internal Revenue Code of 1954)

TAX ON EMPLOYEES

- 31.3101 Statutory provisions; rate of tax.
31.3101-1 Measure of employee tax.
31.3101-2 Rates and computation of employee tax.
31.3101-3 When employee tax attaches.
31.3102 Statutory provisions; deduction of tax from wages.
31.3102-1 Collection of, and liability for, employee tax.
31.3102-2 Manner and time of payment of employee tax.

TAX ON EMPLOYERS

- 31.3111 Statutory provisions; rate of tax.
31.3111-1 Measure of employer tax.
31.3111-2 Rates and computation of employer tax.
31.3111-3 When employer tax attaches.
31.3111-4 Liability for employer tax.

Sec.

- 31.3111-5 Manner and time of payment of employer tax.
31.3112 Statutory provisions; instrumentalities of the United States.
31.3112-1 Instrumentalities of the United States specifically exempted from the employer tax.

GENERAL PROVISIONS

- 31.3121 (a) Statutory provisions; definitions; wages.
31.3121 (a)-1 Wages.
31.3121 (a)-2 Wages; when paid and received.
31.3121 (a) (1) Statutory provisions; definitions; wages; \$4,200 limitation.
31.3121 (a) (1)-1 \$4,200 limitation.
31.3121 (a) (2) Statutory provisions; definitions; wages; payments under employers' plans on account of retirement, sickness or accident disability, medical or hospitalization expenses, or death.
31.3121 (a) (2)-1 Payments under employers' plans on account of retirement, sickness or accident disability, medical or hospitalization expenses or death.
31.3121 (a) (3) Statutory provisions; definitions; wages; retirement payments.
31.3121 (a) (3)-1 Retirement payments.
31.3121 (a) (4) Statutory provisions; definitions; wages; payments on account of sickness or accident disability, or medical or hospitalization expenses.
31.3121 (a) (4)-1 Payments on account of sickness or accident disability, or medical or hospitalization expenses.
31.3121 (a) (5) Statutory provisions; definitions; wages; payments from or to certain tax-exempt trusts or under or to certain annuity plans.
31.3121 (a) (5)-1 Payments from or to certain tax-exempt trusts or under or to certain annuity plans.
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SUBPART A—INTRODUCTION

§ 31.0-1 *Introduction*—(a) *In general*. The regulations in this part relate to the employment taxes imposed by subtitle C (chapters 21 to 25, inclusive) of the Internal Revenue Code of 1954, as amended. References in the regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, un-

less otherwise indicated. References to the Federal Insurance Contributions Act, the Railroad Retirement Tax Act, and the Federal Unemployment Tax Act are references to chapters 21, 22, and 23, respectively, of the Code. References to sections of law are references to sections of the Internal Revenue Code unless otherwise indicated.

(b) *Division of regulations*. The regulations in this part are divided into 7 subparts. Subpart A contains provisions relating to general definitions and use of terms, the division and scope of the regulations in this part, and the extent to which the regulations in this part supersede prior regulations relating to employment taxes. Subpart B relates to the taxes under the Federal Insurance Contributions Act. Subpart C relates to the taxes under the Railroad Retirement Tax Act. Subpart D relates to the tax under the Federal Unemployment Tax Act. Subpart E relates to the collection of income tax at source on wages under chapter 24 of the Code. Subpart F relates to the provisions of chapter 25 of the Code which are applicable in respect of the taxes imposed by chapters 21 to 24, inclusive, of the Code. Subpart G relates to selected provisions of subtitle F of the Code, relating to procedure and administration, which have special application in respect of the taxes imposed by subtitle C of the Code. Inasmuch as these regulations constitute Part 31 of Title 26 of the Code of Federal Regulations, each section of the regulations is preceded by a section symbol and 31 followed by a decimal point (§ 31.). Sections of law or references thereto are preceded by "Sec." or the word "section".

§ 31.0-2 *General definitions and use of terms*—(a) *In general*. As used in the regulations in this part, unless otherwise expressly indicated—

(1) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(2) The Internal Revenue Code of 1954 means the act approved August 16, 1954 (68A Stat.), entitled "An act to revise the internal revenue laws of the United States", as amended.

(3) The Internal Revenue Code of 1939 means the act approved February 10, 1939 (53 Stat., Part 1), as amended.

(4) The Social Security Act means the act approved August 14, 1935 (49 Stat. 620), as amended.

(5) The Social Security Amendments of 1954 means the act approved September 1, 1954 (68 Stat. 1052).

(6) The Social Security Administration means the Social Security Administration of the Department of Health, Education, and Welfare. (See the Statement of Organization and Delegations of Authority of the Department of Health, Education, and Welfare (20 F. R. 1996).)

(7) District director means district director of internal revenue.

(8) Person includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization or group, through or by

means of which any business, financial operation, or venture is carried on. It includes a guardian, committee, trustee, executor, administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(9) Calendar quarter means a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

(10) Account number means the identifying number of an employee assigned, as the case may be, under the Internal Revenue Code of 1954, under subchapter A of chapter 9 of the Internal Revenue Code of 1939, or under title VIII of the Social Security Act.

(11) Identification number means the identifying number of an employer assigned, as the case may be, under the Internal Revenue Code of 1954, under subchapter A or D of chapter 9 of the Internal Revenue Code of 1939, or under title VIII of the Social Security Act.

(12) Regulations 90 means the regulations approved February 17, 1936 (26 CFR (1939) Part 400), as amended, relating to the excise tax on employers under title IX of the Social Security Act, and such regulations as made applicable to subchapter C of chapter 9 and other provisions of the Internal Revenue Code of 1939 by Treasury Decision 4885, approved February 11, 1939 (26 CFR (1939) 1943 Cum. Supp., p. 5876), together with any amendments to such regulations as so made applicable to the Internal Revenue Code of 1939.

(13) Regulations 91 means the regulations approved November 9, 1936 (26 CFR (1939) Part 401), as amended, relating to the employees' tax and the employers' tax under title VIII of the Social Security Act, and such regulations as made applicable to subchapter A of chapter 9 and other provisions of the Internal Revenue Code of 1939 by Treasury Decision 4885, approved February 11, 1939 (26 CFR (1939) Cum. Supp., p. 5876), together with any amendments to such regulations as so made applicable to the Internal Revenue Code of 1939.

(14) Regulations 106 means the regulations approved February 24, 1940 (26 CFR (1939) Part 402), as amended, relating to the employees' tax and the employers' tax under the Federal Insurance Contributions Act (subchapter A of chapter 9 of the Internal Revenue Code of 1939) with respect to the period after 1939 and before 1951.

(15) Regulations 107 means the regulations approved September 12, 1940 (26 CFR (1939) Part 403), as amended, relating to the excise tax on employers under the Federal Unemployment Tax Act (subchapter C of chapter 9 of the Internal Revenue Code of 1939) with respect to the period after 1939 and before 1955.

(16) Regulations 114 means the regulations approved December 30, 1948 (26 CFR (1939) Part 411), as amended, relating to the employers' tax, employees' tax, and employee representatives' tax under the Railroad Retirement Tax Act (subchapter B of chapter 9 of the Internal Revenue Code of 1939) with respect to compensation paid after 1948

for services rendered after 1946 and before 1955.

(17) Regulations 120 means the regulations approved December 22, 1953 (26 CFR (1939) Part 406), as amended, relating to collection of income tax at source on wages under subchapter D of chapter 9 of the Internal Revenue Code of 1939 with respect to the period after 1953 and before 1955.

(18) Regulations 128 means the regulations approved December 6, 1951 (26 CFR (1939) Part 408), as amended, relating to the employee tax and the employer tax under the Federal Insurance Contributions Act (subchapter A of chapter 9 of the Internal Revenue Code of 1939) with respect to the period after 1950 and before 1955.

(19) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

(b) *Subpart B.* As used in Subpart B of this part, unless otherwise expressly indicated—

(1) Act means the Federal Insurance Contributions Act.

(2) Taxes means the employee tax and the employer tax, as respectively defined in this paragraph.

(3) Employee tax means the tax imposed by section 3101 of the Code.

(4) Employer tax means the tax imposed by section 3111 of the Code.

(c) *Subpart C.* As used in Subpart C of this part, unless otherwise expressly indicated—

(1) Act means the Railroad Retirement Tax Act.

(2) Railway Labor Act means the Act approved May 20, 1926 (44 Stat. 577), as amended.

(3) Railroad Retirement Act of 1937 means the Act approved June 24, 1937 (50 Stat. 307), as amended.

(4) Railroad Retirement Board means the board established pursuant to section 10 of the Railroad Retirement Act of 1937.

(5) Tax means the employee tax, the employee representative tax, or the employer tax, as respectively defined in this paragraph.

(6) Employee tax means the tax imposed by section 3201 of the Code.

(7) Employee representative tax means the tax imposed by section 3211 of the Code.

(8) Employer tax means the tax imposed by section 3221 of the Code.

(d) *Subpart D.* As used in Subpart D of this part, unless otherwise expressly indicated—

(1) Act means the Federal Unemployment Tax Act.

(2) Railroad Unemployment Insurance Act means the Act approved June 25, 1938 (52 Stat. 1094), as amended.

(3) Tax means the tax imposed by section 3301 of the Code.

(e) *Subpart E.* As used in Subpart E of this part, unless otherwise expressly indicated, tax means the tax required to be deducted and withheld from wages under section 3402 of the Code.

§ 31.0-3 *Scope of regulations.*—(a) *Subpart B.* The regulations in Subpart B of this part relate to the imposition

of the employee tax and the employer tax under the Federal Insurance Contributions Act with respect to wages paid and received after 1954 for employment performed after 1938. In addition to employment in the case of remuneration therefor paid and received after 1954, the regulations in Subpart B of this part relate also to employment performed after 1954 in the case of remuneration therefor paid and received before 1955. The regulations in Subpart B of this part include provisions relating to the definition of terms applicable in the determination of the taxes under the Federal Insurance Contributions Act, such as "employee", "wages", and "employment". The provisions of Subpart B relating to the definition of "employment" are applicable also, to the extent provided in § 31.3121 (b)-2, to services performed before 1955 the remuneration for which is paid after 1954. (For prior regulations on similar subject matter, see Regulations 128; 26 CFR (1939) Part 408.)

(b) *Subpart C.* The regulations in subpart C of this part relate to the imposition of the employee tax, the employee representative tax, and the employer tax under the Railroad Retirement Tax Act with respect to compensation paid after 1954, for services rendered after such date. The regulations in Subpart C of this part include provisions relating to the definition of terms applicable in the determination of the taxes under the Railroad Retirement Tax Act, such as "employee", "employee representative", "employer", and "compensation". (For prior regulations on similar subject matter, see Regulations 114; 26 CFR (1939) Part 411.)

(c) *Subpart D.* The regulations in Subpart D of this part relate to the imposition on employers of the excise tax under the Federal Unemployment Tax Act for the calendar year 1955 and subsequent calendar years with respect to wages paid after 1954 for employment performed after 1938. In addition to employment in the case of remuneration therefor paid after 1954, the regulations in Subpart D of this part relate also to employment performed after 1954 in the case of remuneration therefor paid before 1955. The regulations in Subpart D include provisions relating to the definition of terms applicable in the determination of the tax under the Federal Unemployment Tax Act, such as "employee", "employer", "employment", and "wages". The regulations in Subpart D of this part also include provisions relating to the credits against the Federal tax for State contributions. (For prior regulations on similar subject matter, see Regulations 107; 26 CFR (1939) Part 403.)

(d) *Subpart E.* The regulations in Subpart E of this part relate to the withholding under chapter 24 of the Code of income tax at source on wages paid after 1954, regardless of when such wages were earned. The regulations in Subpart E of this part include provisions relating to the definition of terms applicable in the determination of the tax under chapter 24 of the Code, such as "employee", "employer", and "wages". (For prior regulations on similar subject mat-

ter, see Regulations 120; 26 CFR (1939) Part 406.)

(e) *Subpart F.* The regulations in Subpart F of this part deal with the general provisions contained in chapter 25 of the Code, which relate to the employment taxes imposed by chapters 21 to 24, inclusive, of the Code. (For prior regulations on the subject matter of section 3504, see §§ 406.807 and 408.906 of Regulations 120 and Regulations 128, respectively; 26 CFR (1939) Parts 406 and 408.)

(f) *Subpart G.* The regulations in Subpart G of this part, which are prescribed under selected provisions of subtitle F of the Code, relate to the procedural and administrative requirements in respect of records, returns, deposits, payments, and related matters applicable to the employment taxes imposed by subtitle C (chapters 21 to 25, inclusive) of the Code. In addition, the provisions of Subpart G of this part relate to adjustments and to claims for refund, credit, or abatement, made after 1954, in connection with employment taxes imposed by subtitle C of the Internal Revenue Code of 1954, by chapter 9 of the Internal Revenue Code of 1939, or by the corresponding provisions of prior law, but not to any adjustment reported, or credit taken, in whole or in part on any return or supplemental return filed on or before the last day of the first month following the calendar quarter in which the regulations in Subpart G of this part are published in the FEDERAL REGISTER. The provisions of Subpart G of this part also relate to deposits of taxes imposed by subchapter B of chapter 9 of the 1939 Code or by corresponding provisions of prior law with respect to compensation paid after 1954 for services rendered before 1955. For other administrative provisions which have application to the employment taxes imposed by subtitle C of the Code, see the Regulations on Procedure and Administration (Part 301 of this chapter). (The administrative and procedural regulations applicable with respect to a particular employment tax for a prior period were combined with the substantive regulations relating to such tax for such period. For the regulations applicable to the respective taxes for prior periods, see paragraphs (a), (b), (c), and (d) of this section.)

§ 31.0-4 *Extent to which the regulations in this part supersede prior regulations.* The regulations in this part, with respect to the subject matter within the scope thereof, supersede Regulations 107, Regulations 114, Regulations 120, and Regulations 128; 26 CFR (1939) Parts 403, 411, 406, 408.

SUBPART B—FEDERAL INSURANCE CONTRIBUTIONS ACT (CHAPTER 21, INTERNAL REVENUE CODE OF 1954)

TAX ON EMPLOYEES

§ 31.3101 *Statutory provisions; rate of tax.*

Sec. 3101. *Rate of tax.* In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121 (a)) received by him with respect to employment (as defined in section 3121 (b))—

- (1) With respect to wages received during the calendar years 1955 to 1959, both inclusive, the rate shall be 2 percent;
- (2) With respect to wages received during the calendar years 1960 to 1964, both inclusive, the rate shall be 2½ percent;
- (3) With respect to wages received during the calendar years 1965 to 1969, both inclusive, the rate shall be 3 percent;
- (4) With respect to wages received during the calendar years 1970 to 1974, both inclusive, the rate shall be 3½ percent;
- (5) With respect to wages received after December 31, 1974, the rate shall be 4 percent.

[Sec. 3101 as amended by sec. 208 (b), Social Security Amendment 1954]

§ 31.3101-1 Measure of employee tax. The employee tax is measured by the amount of wages received after 1954 with respect to employment after 1936. See §§ 31.3121 (a)-1 to 31.3121 (a) (10)-1, inclusive, relating to wages; and § 31.3121 (b)-1 to 31.3121 (b) (15)-1, inclusive, relating to employment. For provisions relating to the time of receipt of wages, see § 31.3121 (a)-2.

§ 31.3101-2 Rates and computation of employee tax. (a) The rates of employee tax applicable for the respective calendar years are as follows:

	Percent
For the calendar years 1955 to 1959, both inclusive.....	2
For the calendar years 1960 to 1964, both inclusive.....	2½
For the calendar years 1965 to 1969, both inclusive.....	3
For the calendar years 1970 to 1974, both inclusive.....	3½
For the calendar year 1975 and subsequent calendar years.....	4

(b) The employee tax is computed by applying to the wages received by the employee the rate in effect at the time such wages are received.

Example. In 1953 employee A performed for employer X services which constituted employment (see § 31.3121 (b)-2). In 1955, A receives from X \$1,000 as remuneration for such services. The tax is payable at the 2 percent rate in effect for the calendar year 1955 (the year in which the wages are received) and not at the 1½ percent rate which was in effect for the calendar year 1953 (the year in which the services were performed).

§ 31.3101-3 When employee tax attaches. The employee tax attaches at the time that the wages are received by the employee. For provisions relating to the time of such receipt, see § 31.3121 (a)-2.

§ 31.3102 Statutory provisions; deduction of tax from wages.

Sec. 3102. Deduction of tax from wages—
(a) *Requirement.* The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar quarter pays to an employee cash remuneration to which paragraph (7) (B) or (C) or (10) of section 3121 (a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar quarter is less than \$50; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8) (B) of section 3121 (a) is applicable may deduct an amount equivalent to such tax from any such pay-

ment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$100.

(b) *Indemnification of employer.* Every employer required so to deduct the tax shall be liable for the payment of such tax, and shall be indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

[Sec. 3102 as amended by sec. 205 A, Social Security Amendments 1954]

§ 31.3102-1 Collection of, and liability for, employee tax. (a) The employer shall collect from each of his employees the employee tax with respect to wages for employment performed for the employer by the employee. The employer shall make the collection by deducting or causing to be deducted the amount of the employee tax from such wages as and when paid. (For provisions relating to the time of such payment, see § 31.3121 (a)-2.) The employer is required to collect the tax, notwithstanding the wages are paid in something other than money, and to pay over the tax in money. (As to the exclusion from wages of remuneration paid in any medium other than cash for certain types of services, see § 31.3121 (a) (7)-1, relating to such remuneration paid for service not in the course of the employer's trade or business or for domestic service in a private home of the employer; and § 31.3121 (a) (8)-1, relating to such remuneration paid for agricultural labor.)

(b) The employer may deduct amounts equivalent to employee tax from payments to an employee of cash remuneration to which the sections referred to in this paragraph are applicable prior to the time that the sum of such payments equals:

- (1) \$50 in the calendar quarter, for service not in the course of the employer's trade or business, to which § 31.3121 (a) (7)-1 is applicable; or
- (2) \$50 in the calendar quarter, for domestic service in a private home of the employer, to which § 31.3121 (a) (8)-1 is applicable; or
- (3) \$100 in the calendar year, for agricultural labor, to which § 31.3121 (a) (9)-1 is applicable; or
- (4) \$50 in the calendar quarter, for service performed as a home worker, to which § 31.3121 (a) (10)-1 is applicable.

At such time as the sum of the cash payments in the calendar quarter or the calendar year, as the case may be, for a type of service referred to in this paragraph equals or exceeds the amount specified, the employer is required to collect from the employee any amount of employee tax not previously deducted. If an employer pays cash remuneration to an employee for two or more of the types of service referred to in this paragraph, the provisions of this paragraph are to be applied separately to the amount of remuneration attributable to each type of service. For provisions relating to the repayment to an employee, or other disposition, of amounts deducted from an employee's remuneration in excess of the correct amount of employee tax, see § 31.6413 (a)-1. The application of this paragraph may be illustrated by the following examples:

Example (1). In the calendar year 1955 employer X makes several payments of cash remuneration to employee A for agricultural labor which constitutes employment. In January employer X makes his first payment of such cash remuneration to employee A in the amount of \$10. X deducts 20 cents (2 percent of \$10) as an amount equivalent to employee tax. In June X makes his second payment of cash remuneration to A in the amount of \$50. X does not deduct from this payment an amount equivalent to employee tax. In October X makes his third payment of cash remuneration to A in the amount of \$40. This amount brings the sum of such payments in 1955 to \$100, and X is now required to collect employee tax from A. The amount of employee tax applicable to the \$100 so paid is \$2 (2 percent of \$100). Inasmuch as X previously deducted 20 cents in January 1955, X is required to deduct \$1.80 (\$2 minus 20 cents) from the \$40 paid in October 1955.

Example (2). Assume the same facts as in example (1), and assume further that employer X deducted \$1.80 from the October payment to employee A. In November 1955, X makes his next payment of cash remuneration to A in the amount of \$10. X is required to deduct 20 cents (2 percent of \$10) from such payment.

(c) In collecting employee tax, the employer shall disregard any fractional part of a cent of such tax unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. The employer is liable for the employee tax with respect to all wages paid by him to each of his employees whether or not it is collected from the employee. If, for example, the employer deducts less than the correct amount of tax, or if he fails to deduct any part of the tax, he is nevertheless liable for the correct amount of the tax. Until collected from him the employee also is liable for the employee tax with respect to all the wages received by him. Any employee tax collected by or on behalf of an employer is a special fund in trust for the United States. See section 7501. The employer is indemnified against the claims and demands of any person for the amount of any payment of such tax made by the employer to the district director.

§ 31.3102-2 Manner and time of payment of employee tax. The employee tax is payable to the district director in the manner and at the time prescribed in subpart G of the regulations in this part.

TAX ON EMPLOYERS

§ 31.3111 Statutory provisions; rate of tax.

Sec. 3111. Rate of tax. In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121 (a)) paid by him with respect to employment (as defined in section 3121 (b))—

- (1) With respect to wages paid during the calendar years 1955 to 1959, both inclusive, the rate shall be 2 percent;
- (2) With respect to wages paid during the calendar years 1960 to 1964, both inclusive, the rate shall be 2½ percent;
- (3) With respect to wages paid during the calendar years 1965 to 1969, both inclusive, the rate shall be 3 percent;
- (4) With respect to wages paid during the calendar years 1970 to 1974, both inclusive, the rate shall be 3½ percent;

(5) With respect to wages paid after December 31, 1974, the rate shall be 4 percent. [Sec. 3111 as amended by sec. 208 (c), Social Security Amendments 1954]

§ 31.3111-1 *Measure of employer tax.* The employer tax is measured by the amount of wages paid after 1954 with respect to employment after 1936. See §§ 31.3121 (a)-1 to 31.3121 (a) (10)-1, inclusive, relating to wages, and §§ 31.3121 (b)-1 to 31.3121 (b) (15)-1, inclusive, relating to employment. For provisions relating to time of payment of wages, see § 31.3121 (a)-2.

§ 31.3111-2 *Rates and computation of employer tax.* (a) The rates of employer tax applicable for the respective calendar years are as follows:

	Percent
For the calendar years 1955 to 1959, both inclusive.....	2
For the calendar years 1960 to 1964, both inclusive.....	2½
For the calendar years 1965 to 1969, both inclusive.....	3
For the calendar years 1970 to 1974, both inclusive.....	3½
For the calendar year 1975 and subsequent calendar years.....	4

(b) The employer tax is computed by applying to the wages paid by the employer the rate in effect at the time such wages are paid.

§ 31.3111-3 *When employer tax attaches.* The employer tax attaches at the time that the wages are paid by the employer. For provisions relating to the time of such payment, see § 31.3121 (a)-2.

§ 31.3111-4 *Liability for employer tax.* The employer is liable for the employer tax with respect to the wages paid to his employees for employment performed for him.

§ 31.3111-5 *Manner and time of payment of employer tax.* The employer tax is payable to the district director in the manner and at the time prescribed in Subpart G of the regulations in this part.

§ 31.3112 *Statutory provisions; instrumentalities of the United States.*

Sec. 3112. *Instrumentalities of the United States.* Notwithstanding any other provision of law (whether enacted before or after the enactment of this section) which grants to any instrumentality of the United States an exemption from taxation, such instrumentality shall not be exempt from the tax imposed by section 3111 unless such other provision of law grants a specific exemption, by reference to section 3111 (or the corresponding section of prior law), from the tax imposed by such section.

§ 31.3112-1 *Instrumentalities of the United States specifically exempted from the employer tax.* Section 3112 makes ineffectual as to the employer tax imposed by section 3111 those provisions of law which grant to an instrumentality of the United States an exemption from taxation, unless such provisions grant a specific exemption from the tax imposed by section 3111 by an express reference to such section or the corresponding section of prior law (section 1410 of the Internal Revenue Code of 1939). Thus, the general exemptions from Federal taxation granted by various statutes to certain instrumentalities of the United States without specific reference to the

tax imposed by section 3111 or by section 1410 of the 1939 Code are rendered inoperative insofar as such exemptions relate to the tax imposed by section 3111. For provisions relating to the exception from employment of services performed in the employ of an instrumentality of the United States specifically exempted from the employer tax, see § 31.3121 (b) (5)-1. For provisions relating to services performed for an instrumentality exempt on December 31, 1950, from the employer tax, see § 31.3121 (b) (6)-1 (c).

GENERAL PROVISIONS

§ 31.3121 (a) *Statutory provisions; definitions; wages.*

Sec. 3121. *Definitions.*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

§ 31.3121 (a)-1 *Wages.* (a) Whether remuneration paid after 1954 for employment performed after 1936 constitutes wages is determined under section 3121 (a). This section and §§ 31.3121 (a) (1)-1 to 31.3121 (a) (10)-1, inclusive (relating to the statutory exclusions from wages), apply with respect only to remuneration paid after 1954 for employment performed after 1936. Whether remuneration paid after 1936 and before 1940 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of Regulations 91. Whether remuneration paid after 1939 and before 1951 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of Regulations 106; 26 CFR (1939) Part 402. Whether remuneration paid after 1950 and before 1955 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of Regulations 128.

(b) The term "wages" means all remuneration for employment unless specifically excepted under section 3121 (a) (see §§ 31.3121 (a) (1)-1 to 31.3121 (a) (10)-1, inclusive) or paragraph (j) of this section.

(c) The name by which the remuneration for employment is designated is immaterial. Thus, salaries, fees, bonuses, and commissions on sales or on insurance premiums, are wages if paid as compensation for employment.

(d) The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and it may be paid hourly, daily, weekly, monthly, or annually.

(e) Generally the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, goods, lodging, food, or clothing. Remuneration paid in items other than cash shall be computed on the basis of the fair value of such items at the time of payment. See, however, §§ 31.3121 (a) (7)-1, 31.3121 (a) (8)-1, and 31.-

3121 (a) (10)-1, relating to the treatment of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business and for domestic service in a private home of the employer, for agricultural labor, and for services performed by certain home workers, respectively.

(f) Ordinarily, facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases), furnished or offered by an employer to his employees generally, are not considered as remuneration for employment if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment, or efficiency of his employees. The term "facilities or privileges", however, does not ordinarily include the value of meals or lodging furnished, for example, to restaurant or hotel employees, or to seamen or other employees aboard vessels, since generally these items constitute an appreciable part of the total remuneration of such employees.

(g) Amounts of so-called "vacation allowances" paid to an employee constitute wages. Thus, the salary of an employee on vacation, paid notwithstanding his absence from work, constitutes wages.

(h) Amounts paid specifically—either as advances or reimbursements—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment.

(i) Remuneration for employment, unless such remuneration is specifically excepted under section 3121 (a) or paragraph (j) of this section, constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

Example. A is employed by B during the month of January 1955 in employment and is entitled to receive remuneration of \$100 for the services performed for B, the employer, during the month. A leaves the employ of B at the close of business on January 31, 1955. On February 15, 1955 (when A is no longer an employee of B), B pays A the remuneration of \$100 which was earned for the services performed in January. The \$100 is wages and the taxes are payable with respect thereto.

(j) In addition to the exclusions specified in §§ 31.3121 (a) (1)-1 to 31.3121 (a) (10)-1, inclusive, the following types of payments are excluded from wages:

(1) Remuneration for services which do not constitute employment under section 3121 (b) (see §§ 31.3121 (b)-1 to 31.3121 (b) (15)-1, inclusive) and which are not deemed to be employment under section 3121 (c) (see § 31.3121 (c)-1).

(2) Remuneration for services which are deemed not to be employment under section 3121 (c) (see § 31.3121 (c)-1).

(3) Tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer.

§ 31.3121 (a)-2 *Wages; when paid and received.* (a) In general, wages are received by an employee at the time that they are paid by the employer to the employee. Wages are paid by an employer at the time that they are actually or constructively paid unless under paragraph (c) of this section they are deemed to be subsequently paid.

(b) Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case the wages must be credited to or set apart for the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn upon at any time, and their payment brought within his own control and disposition. For provisions relating to the treatment of deductions from remuneration as payments of remuneration, see § 31.3123-1.

(c) (1) The first \$50 of cash remuneration paid, either actually or constructively, by an employer to an employee in a calendar quarter for—

(i) Service to which § 31.3121 (a) (7)-1 is applicable (service not in the course of the employer's trade or business and domestic service in a private home of the employer); or

(ii) Service to which § 31.3121 (a) (10)-1 is applicable (service performed by certain home workers),

shall be deemed to be paid by the employer to the employee at the first moment of time in such calendar quarter that the sum of such cash payments made within such quarter is at least \$50.

(2) The first \$100 of cash remuneration paid, either actually or constructively, by an employer to an employee in a calendar year for agricultural labor to which § 31.3121 (a) (8)-1 is applicable shall be deemed to be paid by the employer to the employee at the first moment of time in such calendar year that the sum of such cash payments made within such year is at least \$100.

(3) If an employer pays cash remuneration to an employee for two or more of the types of service referred to in this paragraph, the provisions of this paragraph are to be applied separately to the amount of remuneration attributable to each type of service.

§ 31.3121 (a) (1) *Statutory provisions; definitions; wages; \$4,200 limitation.*

SEC. 3121. *Definitions.*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) That part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs

of this subsection) equal to \$4,200 with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to \$4,200 to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

[Sec. 3121 (a) (1) as amended by sec. 204 (a) Social Security Amendments 1954]

§ 31.3121 (a) (1)-1 *\$4,200 limitation—* (a) *In general.* (1) The term "wages" does not include that part of the remuneration paid within any calendar year after 1954 by an employer to an employee which exceeds the first \$4,200 of remuneration (exclusive of remuneration excepted from wages in accordance with § 31.3121 (a)-1 (j) or § 31.3121 (a) (2)-1 to 31.3121 (a) (10)-1, inclusive) paid within such calendar year by such employer to such employee for employment performed for him at any time after 1936.

(2) The \$4,200 limitation applies only if the remuneration received during any one calendar year by an employee from the same employer for employment performed after 1936 exceeds \$4,200. The limitation in such case relates to the amount of remuneration received during any one calendar year for employment after 1936 and not to the amount of remuneration for employment performed in any one calendar year.

Example. Employee A, in 1955, receives \$3,500 from employer B on account of \$4,000 due him for employment performed in 1955. In 1956 A receives from employer B the balance of \$500 due him for employment performed in the prior year (1955), and thereafter in 1956 also receives \$4,000 for employment performed in 1956 for employer B. The \$3,500 received in 1955 is subject to the taxes in 1955. The balance of \$500 received in 1956 for employment during 1955 is subject to the taxes in 1956, as is also the first \$3,700 paid of the \$4,000 for employment during 1956 (this \$500 for 1955 employment added to the first \$3,700 paid for 1956 employment constitutes the maximum wages which could be received by A in 1956 from any one employer). The final \$300 received by A from B in 1956 is not included as wages and is not subject to the taxes.

(3) If during a calendar year the employee receives remuneration from more than one employer, the limitation of wages to the first \$4,200 of remuneration received applies, not to the aggregate remuneration received from all employers with respect to employment per-

formed after 1936, but instead to the remuneration received during such calendar year from each employer with respect to employment performed after 1936. In such case the first \$4,200 received during the calendar year from each employer constitutes wages and is subject to the taxes, even though, under section 6413 (c), the employee may be entitled to a special credit or refund of any amount of employee tax deducted from his wages which exceeds the employee tax with respect to the first \$4,200 of wages received during the calendar year from all employers. In this connection and in connection with the two examples immediately following, see § 31.6413 (c)-1, relating to special credits or refunds of employee tax on wages over \$4,200. In connection with the application of the \$4,200 limitation on wages in the case of remuneration paid for services performed in the employ of the United States or a wholly-owned instrumentality thereof, see § 31.3122. In connection with the application of the \$4,200 limitation, see also paragraph (b) of this section, relating to the circumstances under which wages paid by a predecessor employer are deemed to be paid by his successor.

Example (1). During 1955 employee C receives from employer D a salary of \$700 a month for employment performed for D during the first 7 months of 1955, or total remuneration of \$4,900. At the end of the sixth month C has received \$4,200 from employer D, and only that part of his total remuneration from D constitutes wages subject to the taxes. The \$700 received by employee C from employer D in the seventh month is not included as wages and is not subject to the taxes. At the end of the seventh month C leaves the employ of D and enters the employ of E. C receives remuneration of \$840 a month from employer E in each of the remaining 5 months of 1955, or total remuneration of \$4,200 from employer E. The entire \$4,200 received by C from employer E constitutes wages and is subject to the taxes. Thus, the first \$4,200 received from employer D and the entire \$4,200 received from employer E constitute wages.

Example (2). During the calendar year 1955 P is simultaneously an officer (an employee) of the X Corporation, the Y Corporation, and the Z Corporation and during such year receives a salary of \$4,200 from each corporation. Each \$4,200 received by P from each of the Corporations X, Y, and Z (whether or not such corporations are related) constitutes wages and is subject to the taxes.

(b) *Wages paid by predecessor attributed to successor.* (1) If an employer (hereinafter referred to as a successor) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and if immediately after the acquisition the successor employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for purposes of the application of the \$4,200 limitation set forth in paragraph (a) of this section, any remuneration (exclusive of remuneration excepted from wages in accordance with § 31.3121

(a)-1 (j) or §§ 31.3121 (a) (2)-1 to 31.3121 (a) (10)-1, inclusive) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor.

(2) The wages paid, or considered as having been paid, by a predecessor to an employee shall, for purposes of the \$4,200 limitation, be treated as having been paid to such employee by a successor, if:

(i) The successor during a calendar year acquired substantially all the property used in a trade or business, or used in a separate unit of a trade or business, of the predecessor;

(ii) Such employee was employed in the trade or business of the predecessor immediately prior to the acquisition and is employed by the successor in his trade or business immediately after the acquisition; and

(iii) Such wages were paid during the calendar year in which the acquisition occurred and prior to such acquisition.

(3) The method of acquisition of the property is immaterial. The acquisition may occur as a consequence of a corporate merger or consolidation, the incorporation of a business by a sole proprietor or a partnership, the continuance without interruption of the business of a previously existing partnership by a new partnership or by a sole proprietor, or a purchase or any other transaction whereby substantially all the property used in a trade or business, or used in a separate unit of a trade or business, of one employer is acquired by another employer.

(4) Substantially all the property used in a separate unit of a trade or business may consist of substantially all the property used in the performance of an essential operation of the trade or business, or it may consist of substantially all the property used in a relatively self-sustaining entity which forms a part of the trade or business.

Example (1). The M Corporation which is engaged in the manufacture of automobiles, including the manufacture of automobile engines, discontinues the manufacture of the engines and transfers all the property used in such manufacturing operation to the N Company. The N Company is considered to have acquired a separate unit of the trade or business of the M Corporation, namely, its engine manufacturing unit.

Example (2). The R Corporation which is engaged in the operation of a chain of grocery stores transfers one of such stores to the S Company. The S Company is considered to have acquired a separate unit of the trade or business of the R Corporation.

(5) A successor may receive credit for wages paid to an employee by a predecessor only if immediately prior to the acquisition the employee was employed by the predecessor in his trade or business which was acquired by the successor and if immediately after the acquisition such employee is employed by the successor in his trade or business (whether or not in the same trade or business in which the acquired property is used). If

the acquisition involves only a separate unit of a trade or business of the predecessor, the employee need not have been employed by the predecessor in that unit provided he was employed in the trade or business of which the acquired unit was a part.

Example. The Y Corporation in 1955 acquires all the property of the X Manufacturing Company and immediately after the acquisition employs in its trade or business employee A, who, immediately prior to the acquisition, was employed by the X Company. The X Company has in 1955 (the calendar year in which the acquisition occurs) and prior to the acquisition paid \$2,500 of wages to A. The Y Corporation in 1955 pays to A remuneration with respect to employment of \$2,500. Only \$1,700 of the remuneration paid by the Y Corporation is considered to be wages. For purposes of the \$4,200 limitation, the Y Corporation is credited with the \$2,500 paid to A by the X Company. If, in the same calendar year, the property is acquired by the Z Company from the Y Corporation and A immediately after the acquisition is employed by the Z Company in its trade or business, no part of the remuneration paid to A by the Z Company in the year of the acquisition will be considered to be wages. The Z Company will be credited with the remuneration paid to A by the Y Corporation and also with the wages paid to A by the X Company (considered for purposes of the application of the \$4,200 limitation as having also been paid by the Y Corporation).

(6) Where a corporation described in section 501 (c) (3) which is exempt from income tax under section 501 (a) has in effect a certificate filed pursuant to section 3121 (k), or pursuant to section 1426 (1) of the Internal Revenue Code of 1939, waiving its exemption from the taxes imposed by the Act, the activity in which such corporation is engaged is considered to be its trade or business for the purpose of determining whether the transferred property was used in the trade or business of the predecessor and for the purpose of determining whether the employment by the predecessor and the successor of an individual whose services were retained by the successor constitute employment in a trade or business. Thus, if a charitable or religious organization, subject to the taxes by virtue of its certificate, acquires all the property of another such organization likewise subject to the taxes and retains the services of employees of the predecessor, wages paid to such employees by the predecessor in the year of the acquisition (and prior to such acquisition) will be attributed to the successor for purposes of the \$4,200 limitation.

§ 31.3121 (a) (2) *Statutory provisions; definitions; wages; payments under employers' plans on account of retirement, sickness or accident disability, medical or hospitalization expenses, or death.*

Sec. 3121. Definitions—(a) Wages. For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or

on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

- (A) Retirement, or
- (B) Sickness or accident disability, or
- (C) Medical or hospitalization expenses in connection with sickness or accident disability, or
- (D) Death.

§ 31.3121 (a) (2)-1 *Payments under employers' plans on account of retirement, sickness or accident disability, medical or hospitalization expenses, or death.* (a) The term "wages" does not include the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

- (1) An employee's retirement,
- (2) Sickness or accident disability of an employee or any of his dependents,
- (3) Medical or hospitalization expenses in connection with sickness or accident disability of an employee or any of his dependents, or
- (4) Death of an employee or any of his dependents.

(b) The plan or system established by an employer need not provide for payments on account of all of the specified items, but such plan or system may provide for any one or more of such items. Payments for any one or more of such items under a plan or system established by an employer solely for the dependents of his employees are not within this exclusion from wages.

(c) Dependents of an employee include the employee's husband or wife, children, and any other members of the employee's immediate family.

(d) It is immaterial for purposes of this exclusion whether the amount or possibility of such benefit payments is taken into consideration in fixing the amount of an employee's remuneration or whether such payments are required, expressly or impliedly, by the contract of service.

§ 31.3121 (a) (3) *Statutory provisions; definitions; wages; retirement payments.*

Sec. 3121. Definitions—(a) Wages. For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

- (3) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

§ 31.3121 (a) (3)-1 *Retirement payments.* The term "wages" does not include any payment made by an employer

to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of the employee's retirement. Thus, payments made to an employee on account of his retirement are excluded from wages under this exception even though not made under a plan or system.

§ 31.3121 (a) (4) *Statutory provisions; definitions; wages; payments on account of sickness or accident disability, or medical or hospitalization expenses.*

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(4) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

§ 31.3121 (a) (4)–1 *Payments on account of sickness or accident disability, or medical or hospitalization expenses.* The term "wages" does not include any payment made by an employer to, or on behalf of, an employee on account of the employee's sickness or accident disability or the medical or hospitalization expenses in connection with the employee's sickness or accident disability, if such payment is made after the expiration of 6 calendar months following the last calendar month in which such employee worked for such employer. Such payments are excluded from wages under this exception even though not made under a plan or system. If the employee does not actually perform services for the employer during the requisite period, the existence of the employer-employee relationship during that period is immaterial.

§ 31.3121 (a) (5) *Statutory provisions; definitions; wages; payments from or to certain tax-exempt trusts or under or to certain annuity plans.*

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(5) Any payment made to, or on behalf of, an employee or his beneficiary—

(A) From or to a trust described in section 401 (a) which is exempt from tax under section 501 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

(B) Under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 (a) (3), (4), (5), and (6);

§ 31.3121 (a) (5)–1 *Payments from or to certain tax-exempt trusts or under or to certain annuity plans.* The term "wages" does not include—

(a) Any payment made by an employer, on behalf of an employee or his beneficiary, into a trust or annuity plan,

if at the time of such payment the trust is exempt from tax under section 501 (a) as an organization described in section 401 (a) or the annuity plan meets the requirements of section 401 (a) (3), (4), (5), and (6); or

(b) Any payment made to, or on behalf of, an employee or his beneficiary from a trust or under an annuity plan, if at the time of such payment the trust is exempt from tax under section 501 (a) as an organization described in section 401 (a) or the annuity plan meets the requirements of section 401 (a) (3), (4), (5), and (6).

A payment made to an employee of a trust described in section 401 (a) which is exempt from tax under section 501 (a) for services rendered as an employee of such trust and not as a beneficiary of the trust is not within this exclusion from wages.

§ 31.3121 (a) (6) *Statutory provisions; definitions; wages; payment by employer of employee tax under section 3101 or employee contributions under a State law.*

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such terms shall not include—

(6) The payment by an employer (without deduction from the remuneration of the employee)—

(A) Of the tax imposed upon an employee under section 3101 (or the corresponding section of prior law), or

(B) Of any payment required from an employee under a State unemployment compensation law;

§ 31.3121 (a) (6)–1 *Payment by an employer of employee tax under section 3101 or employee contributions under a State law.* The term "wages" does not include any payment by an employer (without deduction from the remuneration of, or other reimbursement from, the employee) of either (a) the employee tax imposed by section 3101 or the corresponding section of prior law, or (b) any payment required from an employee under a State unemployment compensation law.

§ 31.3121 (a) (7) *Statutory provisions; definitions; wages; payments for service not in the course of the employer's trade or business or for domestic service.*

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(7) (A) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(B) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this subparagraph, the term "domestic service in a private home of the em-

ployer" does not include service described in subsection (g) (5);

(C) Cash remuneration paid by an employer in any calendar quarter to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this subparagraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in subsection (g) (5);

[Sec. 3121 (a) (7) as amended by sec. 204 (b) (1), (2), Social Security Amendments 1954]

§ 31.3121 (a) (7)–1 *Payments for services not in the course of employer's trade or business or for domestic service*—(a) *Meaning of terms*—(1) *Services not in the course of employer's trade or business.* The term "services not in the course of the employer's trade or business" includes services that do not promote or advance the trade or business of the employer. Such term does not include services performed for a corporation. As used in this section, the term does not include service not in the course of the employer's trade or business performed on a farm operated for profit or domestic service in a private home of the employer. See § 31.3121 (g)–1 (f) for provisions relating to services not in the course of the employer's trade or business performed on a farm operated for profit.

(2) *Domestic service in a private home of the employer.* Services of a household nature performed by an employee in or about a private home of the person by whom he is employed constitute domestic service in a private home of the employer. A private home is a fixed place of abode of an individual or family. A separate and distinct dwelling unit maintained by an individual in an apartment house, hotel, or other similar establishment may constitute a private home. If a dwelling house is used primarily as a boarding or lodging house for the purpose of supplying board or lodging to the public as a business enterprise, it is not a private home. In general services of a household nature in or about a private home include services performed by cooks, waiters, butlers, housekeepers, governesses, maids, valets, baby sitters, janitors, laundresses, furnacemen, caretakers, handymen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. The term "domestic service in a private home of the employer" does not include the services enumerated above unless such services are performed in or about a private home of the employer. Services not of a household nature, such as services performed as a private secretary, tutor, or librarian, even though performed in the employer's home, are not included within the term "domestic service in a private home of the employer". As used in this section, the term does not include domestic service in a private home of the employer performed on a farm operated for profit or service not in the course of the employer's trade or business. See § 31.3121 (g)–1 (f) for provisions relating to domestic service in a private home of the

employer performed on a farm operated for profit.

(b) *Payments other than in cash.* The term "wages" does not include remuneration paid in any medium other than cash (1) for service not in the course of the employer's trade or business, or (2) for domestic service in a private home of the employer. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any medium other than cash, such as lodging, food, clothing, car tokens, transportation passes or tickets, or other goods or commodities, for service not in the course of the employer's trade or business or for domestic service in a private home of the employer does not constitute wages.

(c) *Cash payments.* (1) The term "wages" does not include cash remuneration paid by an employer in any calendar quarter after 1954 to an employee for—

(i) Domestic service in a private home of the employer, or

(ii) Service not in the course of the employer's trade or business,

unless the cash remuneration paid in such quarter by the employer to the employee for such service is \$50 or more.

(2) The test relating to cash remuneration of \$50 or more is based on the remuneration paid in a calendar quarter rather than on the remuneration earned during a calendar quarter. It is immaterial whether the remuneration was earned before 1955 or after 1954.

Example. In the calendar quarter ending March 31, 1955, employer X pays employee A cash remuneration of \$50 for service not in the course of X's trade or business. Such remuneration constitutes wages subject to the taxes even though \$10 thereof represents payment for such service performed by A for X in December 1954.

In determining whether \$50 or more has been paid either for domestic service in a private home of the employer or for service not in the course of the employer's trade or business, only cash remuneration for such service shall be taken into account. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, clothing, car tokens, transportation passes or tickets, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met. If an employee receives cash remuneration from an employer in a calendar quarter for both types of services the \$50 cash-remuneration test is to be applied separately to each type of service. If an employee receives cash remuneration from more than one employer in a calendar quarter for domestic service in a private home of the employer or for service not in the course of the employer's trade or business, the \$50 cash-remuneration test is to be applied separately to the remuneration received from each employer. See § 31.3102-1, relating to deduction of employee tax or amounts equivalent to the tax from cash payments for the services described in this section; § 31.3121 (a)-2, relating to time of payment of wages for such services; and § 31.3121 (i)-1, relating to computation to the nearest dollar of any

payment of cash remuneration for domestic service in a private home of the employer.

§ 31.3121 (a) (8) Statutory provisions; definitions; wages; payments for agricultural labor.

Sec. 3121. Definitions—(a) Wages. For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(8) (A) Remuneration paid in any medium other than cash for agricultural labor;

(B) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor, if the cash remuneration paid in such year by the employer to the employee for such labor is less than \$100;

[Sec. 3121 (a) (8) as amended by sec. 204 (b) (3), Social Security Amendments 1954]

§ 31.3121 (a) (8)-1 Payments for agricultural labor—(a) Scope of this section. For purposes of the regulations in this section, the term "agricultural labor" means, except as otherwise expressly indicated, only such agricultural labor (see § 31.3121 (g)-1) as constitutes employment or is deemed to constitute employment by reason of the rules relating to included and excluded services contained in section 3121 (c) (see § 31.3121 (c)-1) or the corresponding section of prior law.

(b) *Payments other than in cash.* The term "wages" does not include remuneration paid in any medium other than cash for agricultural labor. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any medium other than cash, such as lodging, food, clothing, car tokens, transportation passes or tickets, farm products, or other goods or commodities, for agricultural labor does not constitute wages.

(c) *Cash payments.* (1) The term "wages" does not include cash remuneration paid by an employer in any calendar year after 1954 to an employee for agricultural labor unless the cash remuneration paid in such year by the employer to the employee for such labor is \$100 or more. If an employee receives cash remuneration from an employer both for services which constitute agricultural labor and for services which do not constitute agricultural labor, only the amount of such remuneration which is attributable to agricultural labor shall be included in determining whether the cash-remuneration test is met.

Example. Employer X operates a store and also is engaged in farming operations. Employee A, who regularly performs services for X in connection with the operation of the store, works on X's farm when additional help is required for the farm activities. In the calendar year 1955, X pays A \$90 in cash for agricultural labor performed on X's farm and \$1,500 for services performed in connection with the operation of the store. Since only \$90 in cash remuneration is paid by X to A in the calendar year 1955 for agricultural labor, the cash-remuneration test is not met and the \$90 so paid to A does not constitute wages subject to the taxes.

(2) The test relating to cash remuneration of \$100 or more is based on the remuneration paid in a calendar year

rather than on the remuneration earned during a calendar year. It is immaterial whether the remuneration was earned before 1955 or after 1954.

Example. Employer X pays cash remuneration of \$100 in the calendar year 1955 to employee A for agricultural labor. Such remuneration constitutes wages even though \$10 of such amount represents payment for agricultural labor performed by A for X in December 1954.

(3) If the services performed by an employee for his employer in any pay period include both agricultural labor and other services and either the agricultural labor or the other services are excepted from employment under any of the numbered paragraphs of section 3121 (b), the rules in § 31.3121 (c)-1, relating to included and excluded services, must be applied to the services performed in such pay period. Thus, any cash remuneration paid for agricultural labor which is performed in the pay period and which is deemed to be employment under the included-excluded rules must be taken into account in determining whether the cash remuneration paid to the employee for agricultural labor meets the \$100 cash-remuneration test.

Example. Employer X, who is engaged in farm operations and also in the harvesting of crude gum (oleoresin) from living trees, employs A to perform services in connection with both types of operations. X pays A cash remuneration of \$135 in the calendar year 1955 in 3 equal monthly payments of \$45 each for such services. A spends more than one-half of his time in the first monthly pay period in harvesting crude gum and more than one-half of his time in the second and third pay periods in cultivating the soil. While both types of services performed by A for X constitute agricultural labor as defined in section 3121 (g), A's services in connection with the cultivation of the soil constitute employment and his services in connection with the harvesting of crude gum are excepted from employment under section 3121 (b) (1) (see § 31.3121 (b) (1)-1 (a)). By application of the rules relating to included and excluded services, none of A's services in the first pay period are deemed to constitute employment and the \$45 paid for his services in such pay period is disregarded for purposes of the \$100 cash-remuneration test. Although all of A's services in the second and third pay periods are deemed to constitute employment by application of the included-excluded rules, the \$90 paid by X to A for his services in such periods does not constitute wages subject to the taxes since the total cash remuneration paid to A by X in the calendar year for agricultural labor which constitutes or is deemed to constitute employment is less than \$100.

(4) In determining whether \$100 or more has been paid to an employee for agricultural labor, only cash remuneration for such labor shall be taken into account. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, clothing, car tokens, transportation passes or tickets, farm products, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met. If an employee receives cash remuneration in any one calendar year from more than one employer for agricultural labor, the \$100 cash-remuneration test is to be applied with respect to the remuneration received by the em-

employee from each employer in such calendar year for such labor. See § 31.3102-1, relating to deduction of employee tax or amounts equivalent to the tax from cash payments for agricultural labor, and § 31.3121 (a)-2, relating to the time of payment of wages for agricultural labor.

§ 31.3121 (a) (9) *Statutory provisions; definitions; wages; payments to stand-by employees.*

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(9) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of 65, if he did not work for the employer in the period for which such payment is made; or

§ 31.3121 (a) (9)-1 *Payments to stand-by employees.* The term "wages" does not include any payment (other than vacation or sick pay) made by an employer to an employee after the calendar month in which the employee attains age 65, if—

(a) Such employee does no work (other than being subject to call for the performance of work) for such employer in the period for which such payment is made; and

(b) The employer-employee relationship exists between the employer and employee throughout the period for which such payment is made.

Vacation or sick pay is not within this exclusion from wages. If the employee does any work for the employer in the period for which the payment is made, no remuneration paid by such employer to such employee with respect to such period is within this exclusion from wages. For example, if employee A, who attained the age of 65 in January 1955, is employed by the X Company on a stand-by basis and is paid \$200 by the X Company for being subject to call during the month of February 1955 and an additional \$25 for work performed for the X Company on one day in February 1955, then none of the \$225 is excluded from wages under this exception.

§ 31.3121 (a) (10) *Statutory provisions; definitions; wages; payments to certain home workers.*

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(10) Remuneration paid by an employer in any calendar quarter to an employee for service described in subsection (d) (3) (C) (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50.

§ 31.3121 (a) (10)-1 *Payments to certain home workers.* (a) The term "wages" does not include remuneration paid by an employer in any calendar quarter to an employee—

(1) For services performed after 1954 as a home worker who is an employee by reason of the provisions of section 3121 (d) (3) (C) (see § 31.3121 (d)-1 (d)), or

(2) For services performed after 1950 and before 1955 as a home worker who is an employee by reason of the provisions of section 1426 (d) (3) (C) of the Internal Revenue Code of 1939.

unless the cash remuneration paid in such quarter by the employer to the employee for such services is \$50 or more. The test relating to cash remuneration of \$50 or more is based on remuneration paid in a calendar quarter rather than on remuneration earned during a calendar quarter. If \$50 or more of cash remuneration is paid in a particular calendar quarter, it is immaterial whether the \$50 is in payment for services performed during the quarter of payment or during any other quarter.

(b) The application of paragraph (a) of this section may be illustrated by the following examples:

Example (1). A, a home worker, performs services for X, a manufacturer, in 1954 and 1955. In the performance of the home work A is an employee both in 1954 (by reason of section 1426 (d) (3) (C) of the 1939 Code) and in 1955 (by reason of section 3121 (d) (3) (C)). In March 1955, A returns to X articles made by A at home from materials received by A from X in 1954. X pays A cash remuneration of \$50 for such work when the finished articles are delivered. The \$50 includes \$10 which represents remuneration for home work performed by A in 1954. The entire \$50 is subject to the taxes.

Example (2). Assume that the same transactions occur, but that A is not subject in 1954 to licensing requirements under the laws of the State in which the home work is performed. A, therefore, does not perform home work in 1954 as an employee of X by reason of section 1426 (d) (3) (C) of the 1939 Code, and the \$10 paid in 1955 for such work is not remuneration for employment. The remaining \$40 for the home work performed in 1955 is remuneration for employment, but is excluded from wages by application of the \$50 cash-remuneration test.

(c) In the event an employee receives remuneration in any one calendar quarter from more than one employer for services performed as a home worker of the character described in paragraph (a) of this section, the regulations in this section are to be applied with respect to the remuneration received by the employee from each employer in such calendar quarter for such services. This exclusion from wages has no application to remuneration paid for services performed as a home worker who is an employee under either section 3121 (d) (2) (see § 31.3121 (d)-1 (c)) or section 1426 (d) (2) of the 1939 Code, relating to common law employees.

(d) Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as clothing, car tokens, transportation passes or tickets, or other goods or commodities, is disregarded in determining whether the \$50 cash-remuneration test is met. If the cash remuneration paid in any calendar quarter by an employer to an employee for services performed as a home worker of the character described in paragraph

(a) of this section is \$50 or more, then no remuneration, whether in cash or in any medium other than cash, paid by the employer to the employee in such calendar quarter for such services is excluded from wages under this exception.

(e) For provisions relating to whether a home worker is an employee under section 1426 (d) (3) (C) of the 1939 Code, see § 408.204 of Regulations 128; 26 CFR (1939) Part 408. See also § 31.3102-1, relating to deduction of employee tax or amounts equivalent to the tax from cash payments for services performed as a home worker of the character described in paragraph (a) of this section, and § 31.3121 (a)-2, relating to the time of payment of wages for such services.

§ 31.3121 (b) *Statutory provisions; definition; employment.*

Sec. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means any service performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (h)); except that, in the case of service performed after 1954, such term shall not include—

[Sec. 205. *Amendments to definition of employment* [Social Security Amendments of 1954]. (a) Section 3121 (b) (1) of the Internal Revenue Code of 1954 is amended to read as follows:

(1) (A) Service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended (46 Stat. 1550 § 3; 12 U. S. C. 1141j);

(B) Service performed by foreign agricultural workers (i) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended (65 Stat. 119; 7 U. S. C. 1461-1468), or (ii) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies on a temporary basis to perform agricultural labor;

(b) Section 3121 (b) of the Internal Revenue Code of 1954 is amended by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), and (14), and any references thereto contained in such code, as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), and (13), respectively.

(f) * * * The amendments made by subsections (a) and (b) shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954.]

§ 31.3121 (b)-1 *Employment; services to which the regulations in this subpart apply.* (a) The provisions of the

regulations in this subpart relating to the term "employment" apply with respect to services performed after 1954. Certain provisions also apply with respect to services performed before 1955 for which the remuneration is paid after 1954 (see § 31.3121 (b)-2 (b)). For provisions relating generally to services performed before 1955, see § 31.3121 (b)-2 (a). For provisions relating to the circumstances under which services which do not constitute employment are nevertheless deemed to be employment, and relating to the circumstances under which services which constitute employment are nevertheless deemed not to be employment, see § 31.3121 (c)-1. For provisions relating to who are employees and who are employers, see §§ 31.3121 (d)-1 and 31.3121 (d)-2, respectively.

(b) The taxes apply with respect to remuneration paid after 1954 for services performed before 1955, as well as for services performed after 1954, to the extent that the remuneration and services constitute wages and employment. See §§ 31.3121 (a)-1 to 31.3121 (a) (10)-1, relating to wages.

§ 31.3121 (b)-2 *Employment; services performed before 1955—(a) General rule.* (1) Subject to the provisions of paragraph (b) of this section:

(i) Services performed after 1936 and before 1955 which were employment under the applicable law in effect before 1955 constitute employment under section 3121 (b).

(ii) Services performed after 1936 and before 1955 which were not employment under the applicable law in effect before 1955 do not constitute employment under section 3121 (b).

(2) Except as provided in paragraph (b) of this section, determination of whether services performed before 1955 constitute employment shall be made in accordance with the applicable provisions of law in effect before 1955 and of the regulations thereunder. The regulations applicable in determining whether services performed after 1936 and before 1955 constitute employment are as follows:

(i) Services performed after 1936 and before 1940—Regulations 91; 26 CFR (1939) Part 401.

(ii) Services performed after 1939 and before 1951—Regulations 106; 26 CFR (1939) Part 402.

(iii) Services performed after 1950 and before 1955—Regulations 128; 26 CFR (1939) Part 408.

(b) *Certain services performed before 1955 the remuneration for which is paid after 1954.* (1) Services of the following character performed before 1955, for which remuneration is paid after 1954, constitute employment under section 3121 (b):

(i) Agricultural labor, as defined in section 3121 (g) (see § 31.3121 (g)-1), other than services of the character described in section 3121 (b) (1) (relating to services performed in connection with the production or harvesting of certain oleoresinous products and services performed by certain foreign agricultural workers), which, at the time performed, constituted employment under section 1426 (b) of the 1939 Code, or would have

constituted employment except for the provisions of section 1426 (b) (1) of such Code, as in effect at the time the services were performed.

(ii) Services not in the course of the employer's trade or business (see § 31.3121 (a) (7)-1 (a) (1)) which, at the time performed, constituted employment under section 1426 (b) of the 1939 Code, or would have constituted employment except for the provisions of section 1426 (b) (3) of such Code, as in effect at the time the services were performed.

(2) Services of the character described in section 3121 (b) (1) (B) (see § 31.3121 (b) (1)-1 (b) and (c), relating to services performed by certain foreign agricultural workers), which were performed before 1955 and the remuneration for which is paid after 1954, do not constitute employment under section 3121 (b), irrespective of whether they constituted employment under section 1426 (b) of the 1939 Code, as in effect at the time the services were performed.

(3) This paragraph has no application to services performed before 1955 and the remuneration for which was paid before 1955.

§ 31.3121 (b)-3 *Employment; services performed after 1954—(a) In general.* Whether services performed after 1954 constitute employment is determined in accordance with the provisions of section 3121 (b).

(b) *Services performed within the United States.* Services performed after 1954 within the United States, that is, within any of the several States, the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico, by an employee for his employer, unless specifically excepted by section 3121 (b), constitute employment. The place where the contract of service is entered into and the residence of the employee or of the employer are immaterial. The citizenship of the employee or of the employer also is immaterial except to the extent provided in any specific exception from employment. Thus, the employee and the employer may be citizens and residents of a foreign country and the contract of service may be entered into in a foreign country, and yet, if the employee under such contract performs services within the United States, there may be to that extent employment.

(c) *Services performed outside the United States—(1) In general.* Except as provided in subparagraphs (2) and (3) of this paragraph, services performed outside the United States, that is, outside the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico, do not constitute employment.

(2) *On or in connection with an American vessel or American aircraft.*

(i) Services performed after 1954 by an employee for an employer "on or in connection with" an American vessel or American aircraft outside the United States (that is, the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico) constitute employment if:

(a) The employee is also employed "on and in connection with" such vessel or aircraft when outside the United States; and

(b) The services are performed under a contract of service, between the employee and the employer, which is entered into within the United States; or during the performance of the contract under which the services are performed and while the employee is employed on the vessel or aircraft it touches at a port within the United States; and

(c) The services are not excepted under section 3121 (b).

(ii) An employee performs services on and in connection with the vessel or aircraft if he performs services on such vessel or aircraft which are also in connection with the vessel or aircraft. Services performed on the vessel by employees as officers or members of the crew, or as employees of concessionaires, of the vessel, for example, are performed under such circumstances, since such services are also connected with the vessel. Similarly, services performed on the aircraft by employees as officers or members of the crew of the aircraft are performed on and in connection with such aircraft. Services may be performed on the vessel or aircraft, however, which have no connection with it, as in the case of services performed by an employee while on the vessel or aircraft merely as a passenger in the general sense. For example, the services of a buyer in the employ of a department store while he is a passenger on a vessel are not in connection with the vessel.

(iii) If services are performed by an employee "on and in connection with" an American vessel or American aircraft when outside the United States and the conditions listed in subdivision (i) (b) and (c) of this subparagraph are met, then the services of that employee performed on or in connection with the vessel or aircraft constitute employment. The expression "on or in connection with" refers not only to services performed on the vessel or aircraft but also to services connected with the vessel or aircraft which are not actually performed on it (for example, shore services performed as officers or members of the crew, or as employees of concessionaires, of the vessel).

(iv) Services performed by a member of the crew or other employee whose contract of service is not entered into within the United States, and during the performance of which and while the employee is employed on the vessel or aircraft it does not touch at a port within the United States, do not constitute employment under this subparagraph, notwithstanding services performed by other members of the crew or other employees on or in connection with the vessel or aircraft may constitute employment.

(v) A vessel includes every description of watercraft, or other contrivance, used as a means of transportation on water. An aircraft includes every description of craft, or other contrivance, used as a means of transportation through the air. In the case of an aircraft, the term "port" means an airport.

An airport means an area on land or water used regularly by aircraft for receiving or discharging passengers or cargo. For definitions of "American vessel" and "American aircraft", see § 31.3121 (f)-1.

(vi) With respect to services performed outside the United States on or in connection with an American vessel or American aircraft, the citizenship or residence of the employee is immaterial, and the citizenship or residence of the employer is material only in case it has a bearing in determining whether a vessel is an American vessel.

(3) *By a citizen of the United States as an employee for an American employer.* Services performed after 1954 outside the United States by a citizen of the United States as an employee for an American employer constitute employment provided the services are not specifically excepted under section 3121 (b). For definitions of "citizen of the United States" and "American employer", see §§ 31.3121 (e)-1 and 31.3121 (h)-1, respectively.

(4) *By a citizen of the United States as an employee for a foreign subsidiary corporation.* For provisions relating to the extension of the Federal old-age and survivors insurance system established by title II of the Social Security Act to certain services not constituting employment which are performed outside the United States by citizens of the United States in the employ of a foreign subsidiary of a domestic corporation, see section 3121 (l) and the Regulations Relating to Contract Coverage of Employees of Foreign Subsidiaries (Part 36 of this chapter).

§ 31.3121 (b)-4 *Employment; excepted services in general.* (a) Services performed after 1954 by an employee for an employer do not constitute employment for purposes of the taxes if they are specifically excepted from employment under any of the numbered paragraphs of section 3121 (b). Services so excepted do not constitute employment for purposes of the tax even though they are performed within the United States, or are performed outside the United States on or in connection with an American vessel or American aircraft, or are performed outside the United States by a citizen of the United States for an American employer.

(b) The exception attaches to the services performed by the employee and not to the employee as an individual; that is, the exception applies only to the services in an excepted class rendered by the employee.

Example. A is an individual who is employed part time by B to perform services which are specifically excepted from employment under one of the numbered paragraphs of section 3121 (b). A is also employed by C part time to perform services which constitute employment. While no tax liability is incurred with respect to A's remuneration for services performed in the employ of B (the services being excepted from employment), the exception does not embrace the services performed by A in the employ of C (which constitute employment) and the taxes attach with respect to the wages (see § 31.3121 (a)-1) for such services.

(c) For provisions relating to the circumstances under which services which

are excepted are nevertheless deemed to be employment, and relating to the circumstances under which services which are not excepted are nevertheless deemed not to be employment, see § 31.3121 (c)-1.

§ 31.3121 (b) (1) *Statutory provisions; definitions; employment; agricultural services.*

Sec. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such terms shall not include—

(1) (A) Service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended (46 Stat. 1550 § 3; 12 U. S. C. 1141j);

(B) Service performed by foreign agricultural workers (i) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended (65 Stat. 119; 7 U. S. C. 1461-1468), or (ii) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies on a temporary basis to perform agricultural labor;

(Sec. 3121 (b) (1), as amended, effective with respect to services (performed after 1954 or before 1955) the remuneration for which is paid after 1954, by sec. 205 (a), Social Security Amendments 1954)

Sec. 15. *Miscellaneous provisions [Agricultural Marketing Act].* * * *

(g) As used in this Act, the term "agricultural commodity" includes * * * crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine and gum rosin, as defined in the Naval Stores Act, approved March 3, 1923 (42 Stat. 1435; 7 U. S. C. 92 (c), (h)).

Sec. 2. [The Naval Stores Act]. That, when used in this Act—

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

Sec. 501. [Title V, Agricultural Act of 1949]. For the purpose of assisting in such production of agricultural commodities and products as the Secretary of Agriculture deems necessary, by supplying agricultural workers from the Republic of Mexico (pursuant to arrangements between the United States and the Republic of Mexico), the Secretary of Labor is authorized—

(1) To recruit such workers (including any such workers who have resided in the United States for the preceding five years, or who are temporarily in the United States under legal entry);

(5) To assist such workers and employers in negotiating contracts for agricultural employment (such workers being free to accept or decline agricultural employment with any eligible employer and to choose the type of agricultural employment they desire, and eligible employers being free to offer agricultural employment to any workers of their choice not under contract to other employers);

Sec. 507. [Title V, Agricultural Act of 1949]. For the purposes of this title—

(1) The term "agricultural employment" includes services or activities included within the provisions of section 3 (f) of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060; 29 U. S. C. 203 (f)), or section 1426 (h) of the Internal Revenue Code as amended [section 3121 (g) of the Internal Revenue Code of 1954], horticultural employment, cotton ginning, compressing and storing, crushing of oil seeds, and the packing, canning, freezing, drying, or other processing of perishable or seasonable agricultural products.

Sec. 509. [Title V, Agricultural Act of 1949]. No workers will be made available under this title for employment after June 30, 1959.

[Sec. 509 as amended by Act of Aug. 9, 1955, 69 Stat. 615]

Sec. 3. *Definitions [Fair Labor Standards Act of 1938].* As used in this Act—

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

§ 31.3121 (b) (1)-1 *Services performed in connection with the production or harvesting of certain oleoresinous products and services performed by certain foreign agricultural workers.* (a) Services performed in connection with the production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum, are excepted from employment. However, the services to which this paragraph relates constitute agricultural labor as defined in section 3121 (g) (see § 31.3121 (g)-1 (d)). Thus, any cash remuneration paid for such services, to the extent that the services are deemed to constitute employment by reason of the rules relating to included and excluded services contained in section 3121 (c) (see § 31.3121 (c)-1), is taken in account in applying the test prescribed in section 3121 (a) (8) (B) for determining whether cash remuneration paid for agricultural labor constitutes wages (see § 31.3121 (a) (8)-1 (c)).

(b) Services performed by foreign agricultural workers from the Republic of Mexico under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended, are excepted from employment. Contracts entered into pursuant to the provisions of such title V may provide for the performance only of services which constitute "agricultural employment". The term "agricultural employment" includes certain services which do not constitute "agricultural labor" as that term is defined in section 3121 (g) (see § 31.3121 (g)-1). For purposes of title V of the

Agricultural Act of 1949, as amended, the term "agricultural employment" includes services or activities included within the provisions of section 3 (f) of the Fair Labor Standards Act of 1938, as amended, or section 3121 (g) of the Internal Revenue Code, horticultural employment, cotton ginning, compressing and storing, crushing of oil seeds, and the packing, canning, freezing, drying, or other processing of perishable or seasonable agricultural products.

(c) Services performed by a foreign agricultural worker lawfully admitted to the United States from the Bahamas, Jamaica, or the other British West Indies, on a temporary basis to perform agricultural labor are excepted from employment.

(d) See § 31.3121 (b)-2 (b) for provisions relating to the status of services of the character to which this section applies which were performed before 1955 and the remuneration for which is paid after 1954.

§ 31.3121 (b) (2) *Statutory provisions; definitions; employment; domestic service performed by students for certain college organizations.*

Sec. 3121. Definitions. * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

§ 31.3121 (b) (2)-1 *Domestic service performed by students for certain college organizations.* (a) Services of a household nature performed in or about the club rooms or house of a local college club, or in or about the club rooms or house of a local chapter of a college fraternity or sorority, by a student who is enrolled and regularly attending classes at a school, college, or university are excepted from employment. For purposes of this exception, the statutory tests are the type of services performed by the employee, the character of the place where the services are performed, and the status of the employee as a student enrolled and regularly attending classes at a school, college, or university.

(b) In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, waiters, butlers, maids, janitors, laundresses, furnacemen, handymen, gardeners, housekeepers, and housemothers.

(c) A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter. If the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for the purpose of supplying board or lodging to students or the public as a business enterprise, the services performed therein are not within the exception.

(d) The term "school, college, or university" within the meaning of this ex-

ception is to be taken in its commonly or generally accepted sense.

(e) Services of a household nature are not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, hospitals, eleemosynary institutions, or commercial offices or establishments.

(f) For provisions relating to domestic service in a private home of the employer, see § 31.3121 (a) (7)-1.

§ 31.3121 (b) (3) *Statutory provisions; definitions; employment; family employment.*

Sec. 3121. Definitions. * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(3) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

[Sec. 3121 (b) (4), Internal Revenue Code 1954 redesignated paragraph (3) by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (b) (3)-1 *Family employment.* (a) Certain services are excepted from employment because of the existence of a family relationship between the employee and the individual employing him. The exceptions are as follows:

(1) Services performed by an individual in the employ of his or her spouse;

(2) Services performed by a father or mother in the employ of his or her son or daughter; and

(3) Services performed by a son or daughter under the age of 21 in the employ of his or her father or mother.

(b) Under paragraph (a) (1) and (2) of this section, the exception is conditioned solely upon the family relationship between the employee and the individual employing him. Under paragraph (a) (3) of this section, in addition to the family relationship, there is a further requirement that the son or daughter shall be under the age of 21, and the exception continues only during the time that such son or daughter is under the age of 21.

(c) Services performed in the employ of a corporation are not within the exception. Services performed in the employ of a partnership are not within the exception unless the requisite family relationship exists between the employee and each of the partners comprising the partnership.

§ 31.3121 (b) (4) *Statutory provisions; definitions; employment; services performed on or in connection with a non-American vessel or aircraft.*

Sec. 3121. Definitions. * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft, when

outside the United States and (B) (i) such individual is not a citizen of the United States or (ii) the employer is not an American employer.

[Sec. 3121 (b) (5), Internal Revenue Code 1954, as amended and redesignated paragraph (4) by section 205 (b), (c), Social Security Amendments 1954]

§ 31.3121 (b) (4)-1 *Services performed on or in connection with a non-American vessel or aircraft.* (a) Services performed within the United States by an employee for an employer "on or in connection with" a vessel not an American vessel, or "on or in connection with" an aircraft not an American aircraft, are excepted from employment if—

(1) The employee is employed by such employer "on and in connection with" such vessel or aircraft when outside the United States, and

(2) (i) The employee is not a citizen of the United States, or (ii) the employer is not an American employer.

(b) An employee performs services on and in connection with the vessel or aircraft if he performs services on the vessel or aircraft when outside the United States which are also in connection with the vessel or aircraft. Services performed on the vessel outside the United States by employees as officers or members of the crew, or by employees of concessionaires, of the vessel, for example, are performed under such circumstances, since such services are also connected with the vessel. Similarly, services performed on the aircraft outside the United States by employees as officers or members of the crew of the aircraft are performed on and in connection with such aircraft. Services may be performed on the vessel or aircraft, however, which have no connection with it, as in the case of services performed by an employee while on the vessel or aircraft merely as a passenger in the general sense. For example, the services of a buyer in the employ of a department store while he is a passenger on a vessel are not in connection with the vessel.

(c) The expression "on or in connection with" refers not only to services performed on the vessel or aircraft but also to services connected with the vessel or aircraft which are not actually performed on it (for example, shore services performed as officers or members of the crew, or as employees of concessionaires, of the vessel).

(d) Services performed within the United States on or in connection with a non-American vessel or aircraft for an employer by an employee who is not a citizen of the United States are excepted from employment, irrespective of whether the employer is or is not an American employer, provided the employee also is employed by such employer on and in connection with the vessel or aircraft when outside the United States. Services performed within the United States on or in connection with a non-American vessel or aircraft by an employee for an employer who is not an American employer also are excepted from employment, irrespective of whether the employee is or is not a citizen of the United States, provided the employee also is employed by such employer on and in connection with the ves-

sel or aircraft when outside the United States. Services performed within the United States on or in connection with a non-American vessel or aircraft for an American employer by an employee who is a citizen of the United States are not excepted from employment under section 3121 (b) (4), irrespective of whether the employee is employed by such employer on and in connection with the vessel or aircraft when outside the United States. Further, section 3121 (b) (4) does not except from employment services performed within the United States for an employer, whether or not an American employer, on or in connection with a non-American vessel or aircraft by an employee, whether or not a citizen of the United States, who is not also employed by such employer on and in connection with the vessel or aircraft when outside the United States.

(c) Services performed outside the United States on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, by a citizen of the United States as an employee for an American employer are not excepted from employment under section 3121 (b) (4), irrespective of whether the employee is employed on and in connection with such vessel or aircraft when outside the United States. Services performed outside the United States on or in connection with a vessel not an American vessel or on or in connection with an aircraft not an American aircraft, either by an employee who is not a citizen of the United States or for an employer who is not an American employer, do not, in any event, constitute employment. See § 31.3121 (b)-3 (c), relating to services performed outside the United States which constitute employment.

(f) See § 31.3121 (b)-3 (c) (2) (v) for definitions of "vessel" and "aircraft". § 31.3121 (f)-1, for definitions of "American vessel" and "American aircraft". § 31.3121 (e)-1, for definition of "citizen of the United States", and § 31.3121 (h)-1, for definition of "American employer".

§ 31.3121 (b) (5) *Statutory provisions; definitions; employment; services in employ of an instrumentality of the United States specifically exempted from the employer tax.*

Sec. 3121. Definitions. * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(5) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 3111 by virtue of any provision of law which specifically refers to such section (or the corresponding section of prior law) in granting such exemption;

[Sec. 3121 (b) (6), Internal Revenue Code 1954, redesignated paragraph (5) by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (b) (5)-1 *Services in employ of an instrumentality of the United States specifically exempted from the employer tax.* Services performed in the employ of an instrumentality of the

United States are excepted from employment if such instrumentality is exempt from the employer tax imposed by section 3111 by virtue of any other provision of law which specifically refers to such section 3111 or the corresponding section of prior law (section 1410 of the Internal Revenue Code of 1939) in granting exemption from the employer tax. This exception does not operate to exclude from employment services performed in the employ of an instrumentality of the United States unless the Congress has granted to such instrumentality a specific exemption from the tax imposed by section 3111 or the corresponding section of prior law. For provisions which make general exemptions from Federal taxation ineffectual as to the employer tax imposed by section 3111, see § 31.3121-1. For other exceptions from employment applicable with respect to services performed in the employ of an instrumentality of the United States, see § 31.3121 (b) (6)-1.

§ 31.3121 (b) (6) *Statutory provisions; definitions; employment; services in employ of United States or instrumentality thereof.*

Sec. 3121. Definitions. * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(6) (A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

(B) Service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939 on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

(i) Service performed in the employ of a corporation which is wholly owned by the United States;

(ii) Service performed in the employ of a national farm loan association, a production credit association, a Federal Reserve Bank, or a Federal Credit Union;

(iii) Service performed in the employ of a State, county, or community committee under the Commodity Stabilization Service;

(iv) Service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

(v) Service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard;

(C) Service performed in the employ of the United States or in the employ of any

instrumentality of the United States, if such service is performed—

(i) As the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

(ii) In the legislative branch;

(iii) In a penal institution of the United States by an inmate thereof;

(iv) By any individual as an employee included under section 2 of the Act of August 4, 1947 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government; 5 U. S. C., sec. 1052);

(v) By any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

(vi) By any individual to whom the Civil Service Retirement Act of 1930 does not apply because such individual is subject to another retirement system;

[Sec. 3121 (b) (7), Internal Revenue Code 1954, amended and redesignated paragraph (6) by sec. 205 (b), (d), Social Security Amendments 1954]

§ 31.3121 (b) (6)-1 *Services in employ of United States or instrumentality thereof—(a) In general.* This section relates to services performed in the employ of the United States Government or in the employ of an instrumentality of the United States. Particular services which are not excepted from employment under one rule set forth in this section may nevertheless be excepted under another rule set forth in this section or under § 31.3121 (b) (5)-1, relating to services in the employ of an instrumentality of the United States specifically exempted from the employer tax. Moreover, services performed in the employ of the United States or of any instrumentality thereof which are not excepted from employment under paragraph (5) or (6) of section 3121 (b) may nevertheless be excepted under some other paragraph of such section. For provisions relating generally to the application of the taxes in the case of services performed in the employ of the United States or a wholly-owned instrumentality thereof, see § 31.3122.

(b) *Services covered under a retirement system established by a law of the United States.* Services performed in the employ of the United States or in the employ of any instrumentality thereof are excepted from employment under section 3121 (b) (6) (A) if such services are covered under a law enacted by the Congress of the United States which specifically provides for the establishment of a retirement system for employees of the United States or of such instrumentality. Determinations as to whether services are covered by a retirement system of the requisite character are to be made as of the time such services are performed. Services of an employee who has an option to have his services covered under a retirement system are not covered under such retirement system unless and until he exercises such option. The test is whether particular services performed by an employee are covered by a retirement system of the requisite character rather than whether the position in which such services are performed is covered by such retirement system.

(c) *Services performed for an instrumentality not subject to employer tax on December 31, 1950, and covered under a retirement system established by such instrumentality.* (1) Subject to the provisions of subparagraph (4) of this paragraph, services performed in the employ of an instrumentality of the United States are excepted from employment under section 3121 (b) (6) (B) if—

(i) The particular instrumentality was not subject on December 31, 1950, to the employer tax imposed by section 1410 of the Internal Revenue Code of 1939, and

(ii) The services are covered by a retirement system established by such instrumentality.

(2) If the particular instrumentality was not in existence on December 31, 1950, but is created thereafter under a law which was in effect on December 31, 1950, services performed in the employ of such instrumentality are excepted from employment (unless otherwise provided in subparagraph (4) of this paragraph) if—

(i) The instrumentality had it been in existence on December 31, 1950, would not have been subject on that date to the employer tax imposed by section 1410 of the Internal Revenue Code of 1939, and

(ii) The services are covered by a retirement system established by such instrumentality.

It is immaterial, for purposes of this exception, whether the exemption from the employer tax on December 31, 1950, resulted, or would have resulted, from a tax exemption as such in effect on December 31, 1950, or from the provisions of section 1426 (b) (6) of the Internal Revenue Code of 1939 in effect on that date, relating to the exception from employment of services performed in the employ of certain instrumentalities of the United States.

(3) Determinations as to whether services performed in the employ of an instrumentality referred to in subparagraph (1) or (2) of this paragraph are covered by a retirement system established by such instrumentality are to be made as of the time such services are performed. Services of an employee who has an option to have his services covered under a retirement system established by the instrumentality are not covered under such retirement system unless and until he exercises such option. The test is whether particular services performed by an employee are covered by a retirement system established by the instrumentality rather than whether the position in which such services are performed is covered by such retirement system.

(4) The exception from employment provided in section 3121 (b) (6) (B) has no application with respect to any of the following classes of services:

(i) Services performed in the employ of a corporation which is wholly owned by the United States;

(ii) Services performed in the employ of a national farm loan association, a production credit association, a Federal Reserve Bank, or a Federal Credit Union;

(iii) Services performed in the employ of a State, county, or community com-

mittee under the Commodity Stabilization Service;

(iv) Services performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department, or

(v) Services performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard.

(d) *Special classes of services.* The following classes of services performed either in the employ of the United States or in the employ of any instrumentality thereof are excepted from employment under section 3121 (b) (6) (C):

(1) Services performed as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner, of or to the Congress of the United States;

(2) Services performed in the legislative branch of the United States Government;

(3) Services performed in a penal institution of the United States by an inmate thereof;

(4) Services performed by student nurses, medical or dental interns, residents-in-training, student dietitians, student physical therapists, or student occupational therapists, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by any department, agency, or instrumentality of the United States Government, or by certain other student employees described in section 2 of the act of August 4, 1947 (5 U. S. C. 1052);

(5) Services performed by an individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; and

(6) Services performed by an individual to whom the Civil Service Retirement Act does not apply because he is, with respect to such services, subject to another retirement system, established either by a law of the United States or by the agency or instrumentality of the United States for which such services are performed.

§ 31.3121 (b) (7) *Statutory provisions; definitions; employment; services in employ of States or their political subdivisions or instrumentalities.*

Sec. 3121. *Definitions.* * * * (b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(7) Service (other than service which, under subsection (j)), constitutes covered transportation service) performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions;

[Sec. 3121 (b) (8), Internal Revenue Code 1954, redesignated paragraph (7) by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (b) (7)-1 *Services in employ of States or their political subdivisions or instrumentalities.* Services, other than covered transportation service as defined in section 3121 (j), performed in the employ of any State, or of any political subdivision thereof, are excepted from employment. Services, other than covered transportation service, performed in the employ of an instrumentality of one or more States or political subdivisions thereof are excepted from employment if the instrumentality is wholly owned by one or more of the foregoing. The term "State" includes the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico (see § 31.3121 (e)-1). For provisions relating to service which constitutes covered transportation service, see § 31.3121 (j)-1.

§ 31.3121 (b) (8) *Statutory provisions; definitions; employment; services performed by a minister of a church or a member of a religious order; services in employ of religious, charitable, educational, or certain other organizations exempt from income tax.*

Sec. 3121. *Definitions.* * * * (b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(8) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(B) Service performed in the employ of a religious, charitable, educational, or other organization described in section 501 (c) (3) which is exempt from income tax under section 501 (a), but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to subsection (k) (or the corresponding subsection of prior law), is in effect if such service is performed by an employee—

(i) Whose signature appears on the list filed by such organization under subsection (k) (or the corresponding subsection of prior law), or

(ii) Who became an employee of such organization after the calendar quarter in which the certificate was filed;

[Sec. 3121 (b) (9), Internal Revenue Code 1954, redesignated paragraph (8) by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (b) (8)-1 *Services performed by a minister of a church or a member of a religious order—(a) In general.* Services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order, are excepted from employment. For provisions relating to the election available to certain ministers

and members of religious orders to have the Federal old-age and survivors insurance system established by title II of the Social Security Act extended to certain services performed by them, see the Income Tax Regulations (Part 1 of this chapter).

(b) *Service by a minister in the exercise of his ministry.* Except as provided in paragraph (c) (3) of this section, service performed by a minister in the exercise of his ministry includes the ministration of sacerdotal functions and the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations), under the authority of a religious body constituting a church or church denomination. The following rules are applicable in determining whether services performed by a minister are performed in the exercise of his ministry:

(1) Whether service performed by a minister constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of the particular religious body constituting his church or church denomination.

(2) Service performed by a minister in the control, conduct, and maintenance of a religious organization relates to directing, managing, or promoting the activities of such organization. Any religious organization is deemed to be under the authority of a religious body constituting a church or church denomination if it is organized and dedicated to carrying out the tenets and principles of a faith in accordance with either the requirements or sanctions governing the creation of institutions of the faith. The term "religious organization" has the same meaning and application as is given to the term for income tax purposes.

(3) (i) If a minister is performing service in the conduct of religious worship or the ministration of sacerdotal functions, such service is in the exercise of his ministry whether or not it is performed for a religious organization.

(ii) The rule in subdivision (i) of this subparagraph may be illustrated by the following example:

Example. M, a duly ordained minister, is engaged to perform service as chaplain at N university. M devotes his entire time to performing his duties as chaplain which include the conduct of religious worship, offering spiritual counsel to the university students, and teaching a class in religion. M is performing service in the exercise of his ministry.

(4) (i) If a minister is performing service for an organization which is operated as an integral agency of a religious organization under the authority of a religious body constituting a church or church denomination, all service performed by the minister in the conduct of religious worship, in the ministration of sacerdotal functions, or in the control, conduct, and maintenance of such organization is in the exercise of his ministry.

(ii) The rule in subdivision (i) of this subparagraph may be illustrated by the following example:

Example. M, a duly ordained minister, is engaged by the N Religious Board to serve as director of one of its departments. He performs no other service. The N Religious Board is an integral agency of O, a religious organization operating under the authority of a religious body constituting a church denomination. M is performing service in the exercise of his ministry.

(5) (i) If a minister, pursuant to an assignment or designation by a religious body constituting his church, performs service for an organization which is neither a religious organization nor operated as an integral agency of a religious organization, all service performed by him, even though such service may not involve the conduct of religious worship or the ministration of sacerdotal functions, is in the exercise of his ministry.

(ii) The rule in subdivision (i) of this subparagraph may be illustrated by the following example:

Example. M, a duly ordained minister, is assigned by X, the religious body constituting his church, to perform advisory service to Y Company in connection with the publication of a book dealing with the history of M's church denomination. Y is neither a religious organization nor operated as an integral agency of a religious organization. M performs no other service for X or Y. M is performing service in the exercise of his ministry.

(c) *Service by a minister not in the exercise of his ministry.* (1) Section 3121 (b) (8) (A) does not except from employment service performed by a duly ordained, commissioned, or licensed minister of a church which is not in the exercise of his ministry.

(2) (i) If a minister is performing service for an organization which is neither a religious organization nor operated as an integral agency of a religious organization and the service is not performed pursuant to an assignment or designation by his ecclesiastical superiors, then only the service performed by him in the conduct of religious worship or the ministration of sacerdotal functions is in the exercise of his ministry. See, however, subparagraph (3) of this paragraph.

(ii) The rule in subdivision (i) of this subparagraph may be illustrated by the following example:

Example. M, a duly ordained minister, is engaged by N University to teach history and mathematics. He performs no other service for N although from time to time he performs marriages and conducts funerals for relatives and friends. N University is neither a religious organization nor operated as an integral agency of a religious organization. M is not performing the service for N pursuant to an assignment or designation by his ecclesiastical superiors. The service performed by M for N University is not in the exercise of his ministry. However, service performed by M in performing marriages and conducting funerals is in the exercise of his ministry.

(3) Service performed by a duly ordained, commissioned, or licensed minister of a church as an employee of the United States, or a State, Territory, or possession of the United States, or the District of Columbia, or a foreign government, or a political subdivision of any of the foregoing, is not in the exercise of his ministry, even though such service

may involve the ministration of sacerdotal functions or the conduct of religious worship. Thus, for example, service performed by an individual as a chaplain in the Armed Forces of the United States is considered to be performed by a commissioned officer in his capacity as such, and not by a minister in the exercise of his ministry. Similarly, service performed by an employee of a State as a chaplain in a State prison is considered to be performed by a civil servant of the State and not by a minister in the exercise of his ministry.

(d) *Service in the exercise of duties required by a religious order.* Service performed by a member of a religious order in the exercise of duties required by such order includes all duties required of the member by the order. The nature or extent of such service is immaterial so long as it is a service which he is directed or required to perform by his ecclesiastical superiors.

§ 31.3121 (b) (8)-2 *Services in employment of religious, charitable, educational, or certain other organizations exempt from income tax.* (a) Services performed by an employee in the employ of a religious, charitable, educational, or other organization described in section 501 (c) (3) which is exempt from income tax under section 501 (a) are excepted from employment. However, this exception does not apply to services with respect to which a certificate, filed pursuant to section 3121 (k), or section 1426 (l) of the Internal Revenue Code of 1939, is in effect. For provisions relating to the services with respect to which such a certificate is in effect, see § 31.3121 (k)-1.

(b) For provisions relating to exemption from income tax of an organization described in section 501 (c) (3), see the Income Tax Regulations (Part 1 of this chapter). For provisions relating to waiver by an organization of its exemption from the taxes imposed by sections 3101 and 3111, see § 31.3121 (k)-1. See also § 31.3121 (b) (8)-1, relating to services performed by a minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; § 31.3121 (b) (10)-1, relating to services for remuneration of less than \$50 for calendar quarter in the employ of certain organizations exempt from income tax; § 31.3121 (b) (10)-2, relating to services performed in the employ of a school, college, or university by certain students; and § 31.3121 (b) (13)-1, relating to services performed by certain student nurses and hospital interns.

§ 31.3121 (b) (9) *Statutory provisions; definitions; employment; services performed by an employee or an employee representative as defined in section 3231.*

SEC. 3121. *Definitions.* * * * (b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(9) Service performed by an individual as an employee or employee representative as defined in section 3231;

[Sec. 3121 (b) (10), Internal Revenue Code 1954, redesignated paragraph (9) by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (b) (9)-1 *Railroad industry; services performed by an employee or an employee representative as defined in section 3231.* Services performed by an individual as an "employee" or as an "employee representative", as those terms are defined in section 3231, are excepted from employment. For definitions of employee and employee representative, see §§ 31.3231 (b)-1 and 31.3231 (c)-1.

§ 31.3121 (b) (10) *Statutory provisions; definitions; employment; services for remuneration of less than \$50 for calendar quarter in the employ of certain organizations exempt from income tax; services performed in the employ of a school, college, or university by certain students.*

Sec. 3121. Definitions. * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(10) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 (a) (other than an organization described in section 401 (a)) or under section 521, if the remuneration for such service is less than \$50;

(B) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

[Sec. 3121 (b) (11), Internal Revenue Code 1954, redesignated paragraph (10) by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (b) (10)-1 *Services for remuneration of less than \$50 for calendar quarter in the employ of certain organizations exempt from income tax.* (a) Services performed by an employee in a calendar quarter in the employ of an organization exempt from income tax under section 501 (a) (other than an organization described in section 401 (a)) or under section 521 are excepted from employment, if the remuneration for the services is less than \$50. The test relating to remuneration of \$50 is based on the remuneration earned during a calendar quarter rather than on the remuneration paid in a calendar quarter. The exception applies separately with respect to each organization for which the employee renders services in a calendar quarter. The type of services performed by the employee and the place where the services are performed are immaterial; the statutory tests are the character of the organization in the employ of which the services are performed and the amount of the remuneration for services performed by the employee in the calendar quarter. For provisions relating to exemption from income tax under section 501 (a) or 521, see the Income Tax Regulations (Part 1 of this chapter).

Example (1). X is a local lodge of a fraternal organization and is exempt from income tax under section 501 (a) as an organization of the character described in section 501 (c) (8). X has two paid employees, A, who serves exclusively as record-

ing secretary for the lodge, and B, who performs services for the lodge as janitor of its clubhouse. For services performed during the first calendar quarter of 1955 (that is, January 1, 1955, through March 31, 1955, both dates inclusive) A earns a total of \$30. For services performed during the same calendar quarter B earns \$180. Since the remuneration for the services performed by A during such quarter is less than \$50, all of such services are excepted, and the taxes do not attach with respect to any of the remuneration for such services. Since the remuneration for the services performed by B during such quarter, however, is not less than \$50, none of such services are excepted, and the taxes attach with respect to all of the remuneration for such services (that is, \$180) as and when paid.

Example (2). The facts are the same as in example (1), above, except that on April 1, 1955, A's salary is increased and, for services performed during the calendar quarter beginning on that date (that is, April 1, 1955, through June 30, 1955, both dates inclusive), A earns a total of \$60. Although all of the services performed by A during the first quarter were excepted, none of A's services performed during the second quarter are excepted since the remuneration for such services is not less than \$50. The taxes attach with respect to all of the remuneration for services performed during the second quarter (that is, \$60) as and when paid.

Example (3). The facts are the same as in example (1), above, except that A earns \$120 for services performed during the year 1955, and such amount is paid to him in a lump sum at the end of the year. The services performed by A in any calendar quarter during the year are excepted if the portion of the \$120 attributable to services performed in that quarter is less than \$50. If, however, the portion of the \$120 attributable to services performed in any calendar quarter during the year is not less than \$50, the services during that quarter are not excepted, and the taxes attach with respect to that portion of the remuneration attributable to his services in that quarter.

(b) See § 31.3121 (b) (8)-2, relating to services performed in the employ of religious, charitable, educational, and certain other organizations exempt from income tax; § 31.3121 (b) (8)-1, relating to services performed by a minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; § 31.3121 (b) (10)-2, relating to services performed in the employ of a school, college, or university by certain students; and § 31.3121 (b) (13)-1, relating to services performed by certain student nurses and hospital interns.

§ 31.3121 (b) (10)-2 *Services performed in the employ of a school, college, or university by certain students.* (a) Services performed in the employ of a school, college, or university (whether or not such organization is exempt from income tax) are excepted from employment, if the services are performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

(b) For purposes of this exception, the amount of remuneration for services performed by the employee in the calendar quarter, the type of services performed by the employee, and the place where the services are performed are immaterial; the statutory tests are the character of the organization in the employ of which the services are performed, and the status of the employee as a student

enrolled and regularly attending classes at the school, college, or university in the employ of which he performs the services.

(c) The status of the employee as a student performing the services shall be determined on the basis of the relationship of such employee with the organization for which the services are performed. An employee who performs services in the employ of a school, college, or university as an incident to and for the purpose of pursuing a course of study at such school, college, or university has the status of a student in the performance of such services.

(d) The term "school, college, or university" within the meaning of this exception is to be taken in its commonly or generally accepted sense.

(e) For provisions relating to domestic service performed by a student in a local college club, or local chapter of a college fraternity or sorority, see § 31.3121 (b) (2)-1.

§ 31.3121 (b) (11) *Statutory provisions; definitions; employment; services in the employ of a foreign government.*

Sec. 3121. Definitions. * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

[Sec. 3121 (b) (12), Internal Revenue Code 1954, redesignated paragraph (11) by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (b) (11)-1 *Services in the employ of a foreign government.* (a) Services performed by an employee in the employ of a foreign government are excepted from employment. The exception includes not only services performed by ambassadors, ministers, and other diplomatic officers and employees but also services performed as a consular or other officer or employee of a foreign government, or as a nondiplomatic representative thereof.

(b) For purposes of this exception, the citizenship or residence of the employee is immaterial. It is also immaterial whether the foreign government grants an equivalent exemption with respect to similar services performed in the foreign country by citizens of the United States.

§ 31.3121 (b) (12) *Statutory provisions; definitions; employment; services in employ of wholly owned instrumentality of foreign government.*

Sec. 3121. Definitions. * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * * except that * * * such term shall not include—

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

[Sec. 3121 (b) (13), Internal Revenue Code 1954, redesignated paragraph (12) by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (b) (12)-1 *Services in employ of wholly owned instrumentality of foreign government.* (a) Services performed by an employee in the employ of certain instrumentalities of a foreign government are excepted from employment. The exception includes all services performed in the employ of an instrumentality of the government of a foreign country, if—

(1) The instrumentality is wholly owned by the foreign government;

(2) The services are of a character similar to those performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(3) The Secretary of State certifies to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to services performed in the foreign country by employees of the United States Government and of instrumentalities thereof.

(b) For purposes of this exception, the citizenship or residence of the employee is immaterial.

§ 31.3121 (b) (13) *Statutory provisions; definitions; employment; services of student nurse or hospital intern.*

SEC. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an intern in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to State law;

[Sec. 3121 (b) (14), Internal Revenue Code 1954, redesignated paragraph (13) by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (b) (13)-1 *Services of student nurse or hospital intern.* (a) Services performed as a student nurse in the employ of a hospital or a nurses' training school are excepted from employment, if the student nurse is enrolled and regularly attending classes in a nurses' training school and such nurses' training school is chartered or approved pursuant to State law.

(b) Services performed as an intern (as distinguished from a resident doctor in the employ of a hospital are excepted from employment, if the intern has completed a 4 years' course in a medical

school chartered or approved pursuant to State law.

§ 31.3121 (b) (14) *Statutory provisions; definitions; employment; services in delivery or distribution of newspapers, shopping news, or magazines.*

SEC. 3121. *Definitions.* * * *
(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

(14) (A) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or

[Sec. 3121 (b) (16), Internal Revenue Code 1954, redesignated paragraph (14) by sec. 205 (e), Social Security Amendments 1954]

§ 31.3121 (b) (14)-1 *Services in delivery or distribution of newspapers, shopping news, or magazines—(a) Services of individuals under age 18.* Services performed by an employee under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution (as, for example, by a regional distributor) to any point for subsequent delivery or distribution, are excepted from employment. Thus, the services performed by an employee under the age of 18 in making house-to-house delivery or sale of newspapers or shopping news, including handbills and other similar types of advertising material, are excepted from employment. The services are excepted irrespective of the form or method of compensation. Incidental services by the employee who makes the house-to-house delivery, such as services in assembling newspapers, are considered to be within the exception. The exception continues only during the time that the employee is under the age of 18.

(b) *Services of individuals of any age.* Services performed by an employee in, and at the time of, the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, are excepted from employment. The services are excepted whether or not the employee is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back. Moreover, the services are excepted without regard to the age of the employee. Services performed other than at the time of sale to the ultimate consumer are not within the

exception. Thus, the services of a regional distributor which are antecedent to but not immediately part of the sale to the ultimate consumer are not within the exception. However, incidental services by the employee who makes the sale to the ultimate consumer, such as services in assembling newspapers or in taking newspapers or magazines to the place of sale, are considered to be within the exception.

§ 31.3121 (b) (15) *Statutory provisions; definitions; employment; services in employ of international organization.*

SEC. 3121. *Definitions.* * * *
(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

(15) Service performed in the employ of an international organization.

[Sec. 3121 (b) (17), Internal Revenue Code 1954, redesignated paragraph (15) by sec. 205 (e), Social Security Amendments 1954]

§ 31.3121 (b) (15)-1 *Services in employ of international organization.* (a) Subject to the provisions of section 1 of the International Organizations Immunities Act, services performed in the employ of an international organization as defined in section 7701 (a) (18) are excepted from employment.

(b) (1) Section 7701 (a) (18) provides as follows:

SEC. 7701. *Definitions.* (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(18) *International organization.* The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U. S. C. 288-288f).

(2) Section 1 of the International Organizations Immunities Act provides as follows:

SEC. 1. [International Organizations Immunities Act.] For the purposes of this title [International Organizations Immunities Act], the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any

international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.

§ 31.3121 (c) Statutory provisions; definitions; included and excluded services.

Sec. 3121. Definitions. * * *

(c) *Included and excluded service.* For purposes of this chapter, if the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than 31 consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by subsection (b) (9).

[Sec. 3121 (c) as amended by sec. 205 (b), Social Security Amendments 1954]

§ 31.3121 (c)-1 *Included and excluded services.* (a) If a portion of the services performed by an employee for an employer during a pay period constitutes employment, and the remainder does not constitute employment, all the services performed by the employee for the employer during the period shall for purposes of the taxes be treated alike, that is, either all as included or all as excluded. The time during which the employee performs services which under section 3121 (b) constitute employment, and the time during which he performs services which under such section do not constitute employment, within the pay period, determine whether all the services during the pay period shall be deemed to be included or excluded.

(b) If one-half or more of the employee's time in the employ of a particular person in a pay period is spent in performing services which constitute employment, then all the services of that employee for that person in that pay period shall be deemed to be employment.

(c) If less than one-half of the employee's time in the employ of a particular person in a pay period is spent in performing services which constitute employment, then none of the services of that employee for that person in that pay period shall be deemed to be employment.

(d) The application of the provisions of paragraphs (a), (b), and (c) of this section may be illustrated by the following example:

Example. Employer B, who is engaged in the operation of a store and also in the harvesting of crude gum (oleoresin) from living trees, employs A to perform services in connection with both operations. A's services in connection with the harvesting of crude gum do not constitute employment, and his services in the store constitute employment. He is paid at the end of each month. During a particular month A works 120 hours in harvesting the crude gum and 80 hours in the

store. None of A's services during the month are deemed to be employment, since less than one-half of his services during the month constitutes employment. During another month A works 75 hours in harvesting crude gum and 120 hours in the store. All of A's services during the month are deemed to be employment, since one-half or more of his services during the month constitutes employment.

(e) For purposes of this section, a "pay period" is the period (of not more than 31 consecutive calendar days) for which a payment of remuneration is ordinarily made to the employee by the employer. Thus, if the periods for which payments of remuneration are made to the employee by the employer are of uniform duration, each such period constitutes a "pay period". If, however, the periods occasionally vary in duration, the "pay period" is the period for which a payment of remuneration is ordinarily made to the employee by the employer, even though that period does not coincide with the actual period for which a particular payment of remuneration is made. For example, if an employer ordinarily pays a particular employee for each calendar week at the end of the week, but the employee receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the "pay period" is still the calendar week; or if, instead, that employee is sent on a trip by such employer and receives at the end of the third week a single remuneration payment for three weeks' services, the "pay period" is still the calendar week.

(f) If there is only one period (and such period does not exceed 31 consecutive calendar days) for which a payment of remuneration is made to the employee by the employer, such period is deemed to be a "pay period" for purposes of this section.

(g) The rules set forth in this section do not apply (1) with respect to any services performed by the employee for the employer if the periods for which such employer makes payments of remuneration to the employee vary to the extent that there is no period "for which a payment of remuneration is ordinarily made to the employee", or (2) with respect to any services performed by the employee for the employer if the period for which a payment of remuneration is ordinarily made to the employee by such employer exceeds 31 consecutive calendar days, or (3) with respect to any service performed by the employee for the employer during a pay period if any of such service is excepted by section 3121 (b) (9) (see § 31.3121 (b) (9)-1).

(h) If during any period for which a person makes a payment of remuneration to an employee only a portion of the employee's services constitutes employment, but the rules prescribed in this section are not applicable, the taxes attach with respect to such services as constitute employment as defined in section 3121 (b).

§ 31.3121 (d) Statutory provisions; definitions; employee.

Sec. 3121. Definitions. * * *

(d) *Employee.* For purposes of this chapter, the term "employee" means—

(1) Any officer of a corporation; or
(2) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(3) Any individual (other than an individual who is an employee under paragraph (1) or (2)) who performs services for remuneration for any person—

(A) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) As a full-time life insurance salesman;

(C) As a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

If the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed.

[Sec. 3121 (d) as amended by sec. 206, Social Security Amendments 1954]

§ 31.3121 (d)-1 Who are employees—

(a) *In general.* (1) Whether an individual is an employee with respect to services performed after 1954 is determined in accordance with section 3121 (d). This section of the regulations applies with respect only to services performed after 1954. Whether an individual is an employee with respect to services performed after 1936 and before 1940 shall be determined in accordance with the applicable provisions of law and of Regulations 91; 26 CFR (1939) Part 401. Whether an individual is an employee with respect to services performed after 1939 and before 1951 shall be determined in accordance with the applicable provisions of law and of Regulations 106; 26 CFR (1939) Part 402. Whether an individual is an employee with respect to services performed after 1950 and before 1955 shall be determined in accordance with the applicable provisions of law and of Regulations 128; 26 CFR (1939) Part 408.

(2) Section 3121 (d) contains three separate and independent tests for determining who are employees. Paragraphs (b), (c), and (d) of this section relate to the respective tests. Paragraph (b) relates to the test for determining whether an officer of a corporation is an employee of the corporation. Paragraph (c) relates to the test for determining whether an individual is an employee under the usual common law rules.

Paragraph (d) relates to the test for determining which individuals in certain occupational groups who are not employees under the usual common law rules are included as employees. If an individual is an employee under any one of the tests, he is to be considered an employee for purposes of the regulations in this subpart whether or not he is an employee under any of the other tests.

(3) If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, co-adventurer, agent, independent contractor, or the like.

(4) All classes or grades of employees are included within the relationship of employer and employee. Thus, superintendents, managers, and other supervisory personnel are employees.

(5) Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, as not to constitute employment (see § 31.3121 (b)-3).

(b) *Corporate officers.* Generally, an officer of a corporation is an employee of the corporation. However, an officer of a corporation who as such does not perform any services or performs only minor services and who neither receives nor is entitled to receive, directly or indirectly, any remuneration is considered not to be an employee of the corporation. A director of a corporation in his capacity as such is not an employee of the corporation.

(c) *Common law employees.* (1) Every individual is an employee if under the usual common law rules the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.

(2) Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not

as to such services an employee under the usual common law rules. Individuals such as physicians, lawyers, dentists, veterinarians, construction contractors, public stenographers, and auctioneers, engaged in the pursuit of an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees. If an individual enters into an agreement with another person pursuant to which such individual undertakes to produce a crop or livestock on land owned or leased by such other person and pursuant to which (i) the crop or livestock produced by such individual or the proceeds thereof are to be divided between such individual and such other person, and (ii) the amount of such individual's share depends on the amount of the crop or livestock produced, such individual is, with respect to such undertaking, an independent contractor and not an employee.

(3) Whether the relationship of employer and employee exists under the usual common law rules will in doubtful cases be determined upon an examination of the particular facts of each case.

(d) *Special classes of employees.*

(1) In addition to individuals who are employees under paragraph (b) or (c) of this section, other individuals are employees if they perform services for remuneration under certain prescribed circumstances in the following occupational groups:

(i) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services for his principal;

(ii) As a full-time life insurance salesman;

(iii) As a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(iv) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(2) In order for an individual to be an employee under this paragraph, the individual must perform services in an occupation falling within one of the enumerated groups. If the individual does not perform services in one of the designated occupational groups, he is not an employee under this paragraph. An individual who is not an employee under this paragraph may nevertheless be an employee under paragraph (b) or (c) of this section. The language used to designate the respective occupational groups relates to fields of endeavor in which particular designations are not necessarily in universal use with respect to the same

service. The designations are addressed to the actual services without regard to any technical or colloquial labels which may be attached to such services. Thus, a determination whether services fall within one of the designated occupational groups depends upon the facts of the particular situation.

(3) The factual situations set forth below are illustrative of some of the individuals falling within each of the above enumerated occupational groups. The illustrative factual situations are as follows:

(i) *Agent-driver or commission-driver.* This occupational group includes agent-drivers or commission-drivers who are engaged in distributing meat or meat products, vegetables or vegetable products, fruit or fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services for their principals. An agent-driver or commission-driver includes an individual who operates his own truck or the truck of the person for whom he performs services, serves customers designated by such person as well as those solicited on his own, and whose compensation is a commission on his sales or the difference between the price he charges his customers and the price he pays to such person for the product or service.

(ii) *Full-time life insurance salesman.* An individual whose entire or principal business activity is devoted to the solicitation of life insurance or annuity contracts, or both, primarily for one life insurance company is a full-time life insurance salesman. Such a salesman ordinarily uses the office space provided by the company or its general agent, and stenographic assistance, telephone facilities, forms, rate books, and advertising materials are usually made available to him without cost. An individual who is engaged in the general insurance business under a contract or contracts of service which do not contemplate that the individual's principal business activity will be the solicitation of life insurance or annuity contracts, or both, for one company, or any individual who devotes only part time to the solicitation of life insurance contracts, including annuity contracts, and is principally engaged in other endeavors, is not a full-time life insurance salesman.

(iii) *Home workers.* This occupational group includes a worker who performs services off the premises of the person for whom the services are performed, according to specifications furnished by such person, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him. For provisions relating to the determination of wages in the case of a home worker to whom this subdivision is applicable, see § 31.3121 (a) (10)-1.

(iv) *Traveling or city salesman.* (a) This occupational group includes a city or traveling salesman who is engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person or persons) of orders from wholesalers, retailers, contractors, or operators of

hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations. An agent-driver or commission-driver is not within this occupational group. City or traveling salesmen who sell to retailers or to the others specified, operate off the premises of their principals, and are generally compensated on a commission basis, are within this occupational group. Such salesmen are generally not controlled as to the details of their services or the means by which they cover their territories, but in the ordinary case they are expected to call on regular customers with a fair degree of regularity.

(b) In order for a city or traveling salesman to be included within this occupational group, his entire or principal business activity must be devoted to the solicitation of orders for one principal. Thus, the multiple-line salesman generally is not within this occupational group. However, if the salesman solicits orders primarily for one principal, he is not excluded from this occupational group solely because of sideline sales activities on behalf of one or more other persons. In such a case, the salesman is within this occupational group only with respect to the services performed for the person for whom he primarily solicits orders and not with respect to the services performed for such other persons. The following examples illustrate the application of the foregoing provisions:

Example (1). Salesman A's principal business activity is the solicitation of orders from retail pharmacies on behalf of the X Wholesale Drug Company. A also occasionally solicits orders for drugs on behalf of the Y and Z Companies. A is within this occupational group with respect to his services for the X company but not with respect to his services for either the Y Company or the Z Company.

Example (2). Salesman B's principal business activity is the solicitation of orders from retail hardware stores on behalf of the R Tool Company and the S Cooking Utensil Company. B regularly solicits orders on behalf of both companies. B is not within this occupational group with respect to the services performed for either the R Company or the S Company.

Example (3). Salesman C's principal business activity is the house-to-house solicitation of orders on behalf of the T Brush Company. C occasionally solicits such orders from retail stores and restaurants. C is not within this occupational group.

(4) (i) The fact that an individual falls within one of the enumerated occupational groups, however, does not make such individual an employee under this paragraph unless (a) the contract of service contemplates that substantially all the services to which the contract relates in the particular designated occupation are to be performed personally by such individual, (b) such individual has no substantial investment in the facilities used in connection with the performance of such services (other than in facilities for transportation) and (c) such services are part of a continuing relationship with the person for whom the services are performed and are not in the nature of a single transaction.

(ii) The term "contract of service", as used in this paragraph, means an arrangement, formal or informal, under which the particular services are performed. The requirement that the contract of service shall contemplate that substantially all the services to which the contract relates in the particular designated occupation are to be performed personally by the individual means that it is not contemplated that any material part of the services to which the contract relates in such occupation will be delegated to any other person by the individual who undertakes under the contract to perform such services.

(iii) The facilities to which reference is made in this paragraph include equipment and premises available for the work or enterprise as distinguished from education, training, and experience, but do not include such tools, instruments, equipment, or clothing, as are commonly or frequently provided by employees. An investment in an automobile by an individual which is used primarily for his own transportation in connection with the performance of services for another person has no significance under this paragraph, since such investment is comparable to outlays for transportation by an individual performing similar services who does not own an automobile. Moreover, the investment in facilities for the transportation of the goods or commodities to which the services relate is to be excluded in determining the investment in a particular case. If an individual has a substantial investment in facilities of the requisite character, he is not an employee within the meaning of this paragraph, since a substantial investment of the requisite character standing alone is sufficient to exclude the individual from the employee concept under this paragraph.

(iv) If the services are not performed as part of a continuing relationship with the person for whom the services are performed, but are in the nature of a single transaction, the individual performing such services is not an employee of such person within the meaning of this paragraph. The fact that the services are not performed on consecutive workdays does not indicate that the services are not performed as part of a continuing relationship.

§ 31.3121 (d)-2 Who are employers.

(a) Every person is an employer if he employs one or more employees. Neither the number of employees employed nor the period during which any such employee is employed is material for the purpose of determining whether the person for whom the services are performed is an employer.

(b) An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

(c) Although a person may be an employer under this section, services per-

formed in his employ may be of such a nature, or performed under such circumstances, as not to constitute employment (see § 31.3121 (b)-3).

§ 31.3121 (e) Statutory provisions; definitions; State, United States, and citizen.

Sec. 3121. Definitions. * * *

(e) State, United States, and citizen. For purposes of this chapter—

(1) State. The term "State" includes Alaska, Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

(2) United States. The term "United States" when used in a geographical sense includes Puerto Rico and the Virgin Islands.

An individual who is a citizen of Puerto Rico (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

§ 31.3121 (e)-1 State, United States, and citizen. For purposes of the regulations in this subpart, the terms defined in section 3121 (e) have the meanings so assigned to them. When used in the regulations in this subpart, the term "United States", when used in a geographical sense, means the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico. The term "citizen of the United States" includes a citizen of the Virgin Islands or of Puerto Rico.

§ 31.3121 (f) Statutory provisions; definitions; American vessel and aircraft.

Sec. 3121. Definitions. * * *

(f) American vessel and aircraft. For purposes of this chapter, the term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented nor numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State; and the term "American aircraft" means an aircraft registered under the laws of the United States.

§ 31.3121 (f)-1 American vessel and aircraft. (a) The term "American vessel" means any vessel which is documented (that is, registered, enrolled, or licensed) or numbered in conformity with the laws of the United States. It also includes any vessel which is neither documented nor numbered under the laws of the United States, nor documented under the laws of any foreign country, if the crew of such vessel is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State (including the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico). As used herein, a citizen of the United States includes a citizen of the Virgin Islands or of Puerto Rico.

(b) The term "American aircraft" means any aircraft registered under the laws of the United States.

(c) For provisions relating to services performed outside the United States on or in connection with an American vessel or American aircraft, see § 31.3121 (b)-3 (c) (2).

§ 31.3121 (g) *Statutory provisions; definitions; agricultural labor.*

Sec. 3121. *Definitions.* * * *

(g) *Agricultural labor.* For purposes of this chapter, the term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, sec. 3; 12 U. S. C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar quarter in which such service is performed;

(C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

Sec. 15. *Miscellaneous provisions [Agricultural Marketing Act].* * * *

(g) As used in this Act, the term "agricultural commodity" includes * * * crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine and gum rosin, as defined in the Naval Stores Act, approved March 3, 1923 [42 Stat. 1435; 7 U. S. C. 92 (c), (h)].

Sec. 2. [Naval Stores Act]. That, when used in this Act—

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

§ 31.3121 (g)—1 *Agricultural labor—*

(a) *In general.* (1) The term "agricultural labor" as defined in section 3121 (g) includes services of the character described in paragraphs (b), (c), (d), (e), and (f) of this section. In general, however, the term does not include services performed in connection with forestry, lumbering, or landscaping.

(2) The term "farm" as used in the regulations in this subpart includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures used primarily for other purposes (for example, display, storage, and fabrication of wreaths, corsages, and bouquets) do not constitute "farms".

(3) For provisions relating to the exceptions from employment provided with respect to services performed in connection with the production or harvesting of certain oleoresinous products and to services performed by certain foreign agricultural workers, see § 31.3121 (b) (1)—1. For provisions relating to the exclusion from wages of remuneration paid in any medium other than cash for agricultural labor and to the test for determining whether cash remuneration paid for agricultural labor constitutes wages, see § 31.3121 (a) (8)—1.

(b) *Services described in section 3121 (g) (1).* (1) Services performed on a farm by an employee of any person in connection with any of the following activities constitute agricultural labor:

(i) The cultivation of the soil;

(ii) The raising, shearing, feeding, caring for, training, or management of livestock, bees, poultry, fur-bearing animals, or wildlife; or

(iii) The raising or harvesting of any other agricultural or horticultural commodity.

(2) Services performed in connection with the production or harvesting of maple sap, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry constitute agricultural labor only if such services are performed on a farm. Thus, services performed in connection with the operation of a hatchery, if not operated as part of a poultry or other farm, do not constitute agricultural labor.

(c) *Services described in section 3121 (g) (2).* (1) The following services performed by an employee in the employ of the owner or tenant or other operator of one or more farms constitute agricultural labor, provided the major part of such services is performed on a farm:

(i) Services performed in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment; or

(ii) Services performed in salvaging timber, or clearing land or brush and other debris, left by a hurricane.

(2) The services described in subparagraph (1) (i) of this paragraph may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semiskilled workers, which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged.

(3) Since the services described in this paragraph must be performed in the employ of the owner or tenant or other operator of the farm, the term "agricultural labor" does not include services performed by employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(d) *Services described in section 3121 (g) (3).* Services performed by an employee in the employ of any person in connection with any of the following operations constitute agricultural labor without regard to the place where such services are performed:

(1) The ginning of cotton;

(2) The operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying or storing water for farming purposes; or

(3) The production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum.

(e) *Services described in section 3121 (g) (4).* (1) Services performed by an employee in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of any agricultural or horticultural commodity constitute agricultural labor if:

(i) Such services are performed by the employee in the employ of an operator of a farm or in the employ of a group of operators of farms (other than a cooperative organization);

(ii) Such services are performed with respect to the commodity in its unmanufactured state; and

(iii) Such operator produced more than one-half of the commodity with respect to which such services are performed during the pay period, or such group of operators produced all of the commodity with respect to which such services are performed during the pay period.

(2) The term "operator of a farm" as used in this paragraph means an owner, tenant, or other person, in possession of a farm and engaged in the operation of such farm.

(3) The services described in this paragraph do not constitute agricultural

labor if performed in the employ of a cooperative organization. The term "organization" includes corporations, joint-stock companies, and associations which are treated as corporations pursuant to section 7701 (a) (3) of the Internal Revenue Code. For purposes of this paragraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar quarter in which the services involved are performed.

(4) Processing services which change the commodity from its raw or natural state do not constitute agricultural labor. For example, the extraction of juices from fruits or vegetables is a processing operation which changes the character of the fruits or vegetables from their raw or natural state and, therefore, does not constitute agricultural labor. Likewise, services performed in the processing of maple sap into maple sirup or maple sugar do not constitute agricultural labor. On the other hand services rendered in the cutting and drying of fruits or vegetables are processing operations which do not change the character of the fruits or vegetables and, therefore, constitute agricultural labor, if the other requisite conditions are met. Services performed with respect to a commodity after its character has been changed from its raw or natural state by a processing operation do not constitute agricultural labor.

(5) The term "commodity" refers to a single agricultural or horticultural product, for example, all apples are to be treated as a single commodity, while apples and peaches are to be treated as two separate commodities. The services with respect to each such commodity are to be considered separately in determining whether the condition set forth in subparagraph (1) (iii) of this paragraph has been satisfied. The portion of the commodity produced by an operator or group of operators with respect to which the services described in this paragraph are performed by a particular employee shall be determined on the basis of the pay period in which such services were performed by such employee.

(6) The services described in this paragraph do not include services performed in connection with commercial canning or commercial freezing or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the services described in this paragraph must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in

major part on a farm, they may be within the provisions of paragraph (c) of this section.

(f) *Services described in section 3121 (g) (5).* (1) Services not in the course of the employers' trade or business (see § 31.3121 (a) (7)-1 (a) (1)) or domestic service in a private home of the employer (see § 31.3121 (a) (7)-1 (a) (2)) constitutes agricultural labor if such services are performed on a farm operated for profit. The determination whether remuneration for such services performed on a farm operated for profit constitutes wages is to be made under § 31.3121 (a) (8)-1 rather than under § 31.3121 (a) (7)-1.

(2) Generally, a farm is not operated for profit if it is occupied by the employer primarily for residential purposes, or is used primarily for the pleasure of the employer or his family such as for the entertainment of guests or as a hobby of the employer or his family.

§ 31.3121 (h) *Statutory provisions; definitions; American employer.*

Sec. 3121. Definitions. * * *

(h) *American employer.* For purposes of this chapter, the term "American employer" means an employer which is—

- (1) The United States or any instrumentality thereof,
- (2) An individual who is a resident of the United States,
- (3) A partnership, if two-thirds or more of the partners are residents of the United States,
- (4) A trust, if all of the trustees are residents of the United States, or
- (5) A corporation organized under the laws of the United States or of any State.

§ 31.3121 (h)-1 *American employer.*

(a) The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) an individual who is a resident of the United States (that is, the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico), (3) a partnership, if two-thirds or more of the partners are residents of the United States, (4) a trust, if all of the trustees are residents of the United States, or (5) a corporation organized under the laws of the United States or of any State (including the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico).

(b) For provisions relating to services performed outside the United States by a citizen of the United States as an employee for an American employer, see §§ 31.3121 (b)-3 (c) (3) and 31.3121 (b) (4)-1 (e).

§ 31.3121 (i) *Statutory provisions; definitions; computation of wages in certain cases.*

Sec. 3121. Definitions. * * *

(i) *Computation of wages in certain cases.* For purposes of this chapter, in the case of domestic service described in subsection (a) (7) (B), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this chapter, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which

case it shall be increased to \$1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (a) (7) (B).

§ 31.3121 (i)-1 *Computation to nearest dollar of cash remuneration for domestic service.* An employer may, for purposes of the act, elect to compute to the nearest dollar any payment of cash remuneration for domestic service described in section 3121 (a) (7) (B) (see § 31.3121 (a) (7)-1) which is more or less than a whole-dollar amount. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to one dollar. For example, any amount actually paid between \$4.50 and \$5.49, inclusive, may be treated as \$5 for purposes of the taxes imposed by the act. If an employer elects this method of computation with respect to any payment of cash remuneration made in a calendar quarter for domestic service in his private home, he must use the same method in computing each payment of cash remuneration of more or less than a whole-dollar amount made to each of his employees in such calendar quarter for domestic service in his private home. Moreover, if an employer elects this method of computation with respect to payments of the prescribed character made in any calendar quarter, the amount of each payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of the act. Thus, the amount of cash payments so computed to the nearest dollar shall be used for purposes of determining whether such payments constitute wages; for purposes of applying the employee and employer tax rates to the wage payments; for purposes of any required record keeping; and for purposes of reporting and paying the employee tax and employer tax with respect to such wage payments.

§ 31.3121 (j) *Statutory provisions; definitions; covered transportation service.*

Sec. 3121. Definitions. * * *

(j) *Covered transportation service.* For purposes of this chapter—

(1) *Existing transportation systems—General rule.* Except as provided in paragraph (2), all service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) *Existing transportation systems—Cases in which no transportation employees, or only certain employees, are covered.* Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

(A) Any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system was, on December 31, 1950, covered under a general retirement

system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) No part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951; except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) Became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) Prior to such acquisition rendered service in employment (including as employment service covered by an agreement under section 218 of the Social Security Act) in connection with the operation of such part of the transportation system acquired by the State or political subdivision,

the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C).

(3) *Transportation systems acquired after 1950.* All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) *Definitions.* For purposes of this subsection—

(A) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this chapter or subchapter A of chapter 9 of the Internal Revenue Code of 1939 or was covered by an agreement made pursuant to section 218 of the Social Security Act and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(C) The term "political subdivision" includes an instrumentality of—

- (i) A State,
- (ii) One or more political subdivisions of a State, or
- (iii) A State and one or more of its political subdivisions.

§ 31.3121 (j)-1 *Covered transportation service.*—(a) *Transportation systems acquired in whole or in part after 1936 and before 1951.*—(1) *In general.* Ex-

cept as provided in subparagraph (2) of this paragraph, all service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and before 1951. For purposes of this subparagraph, it is immaterial whether any part of the transportation system was acquired before 1937 or after 1950, whether the employee was hired before, during, or after 1950, or whether the employee had been employed by the employer from whom the State or political subdivision acquired its transportation system or any part thereof.

(2) *General retirement system protected by State constitution.* Except as provided in subparagraph (3) of this paragraph, service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system acquired in whole or in part from private ownership after 1936 and before 1951 does not constitute covered transportation service, if substantially all service in connection with the operation of the transportation system was, on December 31, 1950, covered under a general retirement system providing benefits which are protected from diminution or impairment under the State constitution by reason of an express provision, dealing specifically with retirement systems established by the State or political subdivisions of the State, which forbids such diminution or impairment.

(3) *Additions to certain transportation systems by acquisition after 1950.* This subparagraph is applicable only in case of an acquisition after 1950 from private ownership of an addition to an existing public transportation system which was acquired in whole or in part by a State or political subdivision thereof from private ownership after 1936 and before 1951 and then only in case service for such existing transportation system did not constitute covered transportation service by reason of the provisions of subparagraph (2) of this paragraph. Service in connection with the operation of such transportation system (including any additions acquired after 1950) constitutes covered transportation service commencing with the first day of the third calendar quarter following the calendar quarter in which the addition to the existing transportation system was acquired, if such service is performed by an employee who became an employee of the State or political subdivision in connection with and at the time of its acquisition from private ownership of such addition and who before the acquisition of such addition rendered service in employment in connection with the operation of the addition so acquired by such State or political subdivision. However, service performed by such employee in connection with the operation of the transportation system does not constitute covered transportation service if, on the first day of the third calendar quarter following the calendar quarter in which the addition was acquired, such

service is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees who became employees of the State or political subdivision in connection with and at the time of its acquisition of such addition.

(b) *Transportation systems in operation on December 31, 1950, no part of which was acquired after 1936 and before 1951.*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, no service performed in the employ of a State or a political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if no part of such transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and before 1951.

(2) *Additions acquired after 1950.* This subparagraph is applicable only in case of an acquisition after 1950 from private ownership of an addition to an existing public transportation system which was operated by a State or political subdivision on December 31, 1950, but no part of which was acquired from private ownership after 1936 and before 1951. Service in connection with the operation of such transportation system (including any additions acquired after 1950) constitutes covered transportation service commencing with the first day of the third calendar quarter following the calendar quarter in which the addition to the existing transportation system was acquired, if such service is performed by an employee who became an employee of the State or political subdivision in connection with and at the time of its acquisition from private ownership of such addition and who before the acquisition of such addition rendered service in employment in connection with the operation of the addition so acquired by such State or political subdivision. However, service performed by such employee in connection with the operation of the transportation system does not constitute covered transportation service if, on the first day of the third calendar quarter following the calendar quarter in which the addition was acquired, such service is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees who became employees of the State or political subdivision in connection with and at the time of its acquisition of such addition.

(c) *Transportation systems acquired after 1950.* All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if the transportation system was not operated by the State or political subdivision before 1951 and, at the time of its first acquisition after 1950 from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in con-

nection with the operation of the transportation system.

(d) *Definitions.* For purposes of this section:

(1) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term does not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(2) A transportation system or a part thereof is considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or an acquired part thereof constituted employment under the act or under subchapter A of chapter 9 of the Internal Revenue Code of 1939 or was covered by an agreement entered into pursuant to section 218 of the Social Security Act, and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(3) The term "political subdivision" includes an instrumentality of a State, of one or more political subdivisions of a State, or of a State and one or more of its political subdivisions.

(4) The term "employment" includes service covered by an agreement entered into pursuant to section 218 of the Social Security Act.

§ 31.3121 (k) *Statutory provisions; definitions; waiver of exemption by religious, charitable, and certain other organizations.*

Sec. 3121. *Definitions.* * * *

(k) *Exemption of religious, charitable, and certain other organizations.*—(1) *Waiver of exemption by organization.* An organization described in section 501 (c) (3) which is exempt from income tax under section 501 (a) may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that it desires to have the insurance system established by title II of the Social Security Act extended to service performed by its employees and that at least two-thirds of its employees concur in the filing of the certificate. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee who concurs in the filing of the certificate. Such list may be amended at any time prior to the expiration of the twenty-fourth month following the first calendar quarter for which the certificate is in effect, by filing with the prescribed official a supplemental list or lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this chapter. The certificate shall be in effect (for purposes of subsection (b) (8) (B) and for purposes of section 210 (a) (8) (B) of the Social Security Act) for the period beginning with the first day following the close of the calendar quarter in which such certificate is filed, except that, in the case of service performed by an individual whose name appears on a supplemental list filed after the first month following the first

calendar quarter for which the certificate is in effect, the certificate shall be in effect, for purposes of such subsection (b) (8) and for purposes of section 210 (a) (8) of the Social Security Act, only with respect to service performed by such individual after the calendar quarter in which such supplemental list is filed. The period for which a certificate filed pursuant to this subsection or the corresponding subsection of prior law is effective may be terminated by the organization, effective at the end of a calendar quarter, upon giving 2 years' advance notice in writing, but only if, at the time of the receipt of such notice, the certificate has been in effect for a period of not less than 8 years. The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner, and with such official, as may be prescribed by regulations made under this chapter.

(2) *Termination of waiver period by Secretary or his delegate.* If the Secretary or his delegate finds that any organization which filed a certificate pursuant to this subsection or the corresponding subsection of prior law has failed to comply substantially with the requirements applicable with respect to the taxes imposed by this chapter or the corresponding provisions of prior law or is no longer able to comply with the requirements applicable with respect to the taxes imposed by this chapter, the Secretary or his delegate shall give such organization not less than 60 days' advance notice in writing that the period covered by such certificate will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Secretary or his delegate by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the organization. No notice of termination or of revocation thereof shall be given under this paragraph to an organization without the prior concurrence of the Secretary of Health, Education, and Welfare.

(3) *No renewal of waiver.* In the event the period covered by a certificate filed pursuant to this subsection or the corresponding subsection of prior law is terminated by the organization, no certificate may again be filed by such organization pursuant to this subsection.

[Sec. 3121 (k) as amended by secs. 205 (b), 207, and 402, Social Security Amendments of 1954]

§ 31.3121 (k)-1 *Waiver of exemption from taxes.*—(a) *Who may waive exemption.* Any organization described in section 501 (c) (3) which is exempt from income tax under section 501 (a) may waive its exemption from the taxes imposed by sections 3101 and 3111 by filing a certificate on Form SS-15, provided that at least two-thirds of the employees of the organization concur in the filing of the certificate. The organization must be exempt from income tax under section 501 (a) as an organization of the character described in section 501 (c) (3) for the taxable year in which the certificate is filed; otherwise, the Form SS-15 filed by the organization is void. A certificate in effect under section 1426 (1) of the Internal Revenue Code of 1939 on December 31, 1954, continues in effect under, and is subject to the provisions of, section 3121 (k). If the period covered by a certificate filed under section 3121 (k), or under section 1426 (1) of the Internal Revenue Code of 1939, is terminated by the organization, a certificate

may not thereafter be filed by the organization under section 3121 (k).

(b) *Execution and filing of waiver.* (1) The certificate on Form SS-15 shall be filed with the district director for the district in which is located the principal office or principal place of business in the United States of the organization. The organization shall certify in the certificate that it desires to have the Federal old-age and survivors insurance system established by title II of the Social Security Act extended to services performed by its employees and that at least two-thirds of its employees, determined on the basis of the facts existing as of the date the certificate is filed, concur in the filing of the certificate. All individuals who are employees of the organization within the meaning of section 3121 (d) (see § 31.3121 (d)-1) shall be included in determining whether two-thirds of the employees of the organization concur in the filing of the certificate; except that there shall not be included (i) those employees who at the time of the filing of the certificate are performing for such organization services only of the character specified in paragraphs (8) (A), (10), (B), and (13) of section 3121 (b) (see §§ 31.3121 (b) (8)-1, 31.3121 (b) (10)-2, and 31.3121 (b) (13)-1, respectively), and (ii) those alien employees who at the time of the filing of the certificate are performing services for such organization under an arrangement which provides for the performance only of services outside the United States not on or in connection with an American vessel or American aircraft. As used in this subparagraph, the term "alien employee" does not include an employee who is a citizen of Puerto Rico or of the Virgin Islands, and the term "United States" includes Puerto Rico and the Virgin Islands.

(2) A certificate may be filed under section 3121 (k) only if it is accompanied by a list on Form SS-15a, containing the signature, address, and social security account number, if any, of each employee who concurs in the filing of the certificate. (For provisions relating to account numbers, see the regulations under section 6011 (b) in subpart G of the regulations in this part.) The list on Form SS-15a accompanying a certificate filed under section 3121 (k), or under section 1426 (1) of the Internal Revenue Code of 1939, may be amended, at any time before the expiration of the twenty-fourth month following the first calendar quarter for which the certificate is in effect, by filing a supplemental list or lists on Form SS-15a Supplement, containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate.

(c) *Effect of waiver.* (1) A certificate filed by an organization under the provisions of section 3121 (k) shall be in effect, for the period beginning with the first day following the close of the calendar quarter in which the certificate is filed, with respect to services performed in its employ by any employee:

(i) Whose signature appears on the list on Form SS-15a filed with the certificate on Form SS-15, or on a supplemental list on Form SS-15a Supplement

filed before the expiration of the fourth calendar month following the calendar quarter in which the certificate is filed.

(ii) Who became an employee of the organization after the calendar quarter in which the certificate is filed.

In no case, however, shall a certificate filed under the provisions of section 3121 (k) be in effect with respect to services performed in the employ of the organization before January 1, 1955. A certificate is not terminated if the organization loses its exemption under section 501 (a) as an organization of the character described in section 501 (c) (3), but continues effective with respect to any subsequent periods during which the organization is so exempt.

(2) If a list accompanying a certificate filed by an organization under the provisions of section 3121 (k), or under the provisions of section 1426 (l) of the Internal Revenue Code of 1939, is amended under the provisions of section 3121 (k) by the filing of a supplemental list on Form SS-15a Supplement after the expiration of the fourth calendar month following the calendar quarter in which the certificate was filed, the certificate shall be in effect with respect to services performed in the employ of the organization by an individual whose signature appears on such supplemental list—

(i) In the period beginning with the first day following the close of the calendar quarter in which such supplemental list is filed, if such supplemental list is filed on or after October 1, 1954, or

(ii) On and after January 1, 1955, if such supplemental list is filed in the month of September 1954.

(3) Services performed in the employ of an organization which has duly filed a certificate under section 3121 (k), or under section 1426 (l) of the Internal Revenue Code of 1939, by any employee (i) whose signature appears on the list filed by the organization on Form SS-15a or on Form SS-15a Supplement, or (ii) who becomes an employee of the organization after the calendar quarter in which the certificate is filed, are not excepted from employment under section 3121 (b) (8) (B) during the period for which the certificate is in effect with respect to such services. Thus, the taxes imposed by sections 3101 and 3111 will apply to wages paid by the organization for services performed, on and after the first day following the close of the calendar quarter in which the certificate is filed (but not earlier than January 1, 1955), by each employee whose signature appears on the Form SS-15a accompanying the certificate or on any supplemental list or lists on Form SS-15a Supplement filed before the expiration of the fourth calendar month following the calendar quarter in which the certificate was filed. Such taxes will also apply immediately with respect to wages paid by the organization to any individual who enters the employ of the organization on or after the first day following the close of the calendar quarter in which the certificate is filed. In the case of an employee whose signature appears on a supplemental list filed after the expiration of the fourth calendar month following the calendar quarter in which

a certificate was filed either under section 3121 (k), or under section 1426 (l) of the Internal Revenue Code of 1939, the taxes imposed by sections 3101 and 3111 apply only with respect to wages paid to such individual for services performed after the calendar quarter in which the supplemental list is filed, but in no case earlier than January 1, 1955. A former employee of the organization who is rehired on or after the first day following the close of the calendar quarter in which the certificate was filed shall be considered to have entered the employ of the organization after such calendar quarter, regardless of whether or not such individual concurred in the filing of the certificate.

(d) *Termination of waiver by organization.* (1) The period for which a certificate filed pursuant to section 3121 (k), or pursuant to section 1426 (l) of the Internal Revenue Code of 1939, is in effect may be terminated by the organization upon giving to the district director with whom the organization is filing returns 2 years' advance notice in writing of its desire to terminate the effect of the certificate at the end of a specified calendar quarter, but only if, at the time of the receipt of such notice by the district director, the certificate has been in effect for a period of not less than 8 years. The notice of termination shall be signed by the president or other principal officer of the organization. Such notice shall be dated and shall show (i) the title of the officer signing the notice, (ii) the name, address, and identification number of the organization, (iii) the district director with whom the certificate was filed, (iv) the date on which the certificate became effective, and (v) the date on which the certificate is to be terminated. No particular form is prescribed for the notice of termination.

(2) In computing the effective period which must precede the date of receipt of the notice of termination, there shall be disregarded any period or periods as to which the organization was not exempt from income tax under section 501 (a) as an organization of the character described in section 501 (c) (3) or under section 101 (6) of the Internal Revenue Code of 1939.

(3) The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. The notice of revocation shall be filed with the district director with whom the notice of termination was filed. The notice of revocation shall be signed by the president or other principal officer of the organization. Such notice shall be dated and shall show (i) the title of the officer signing the notice, (ii) the name, address, and identification number of the organization, and (iii) the date of the notice of termination to be revoked. No particular form is prescribed for the notice of revocation.

(e) *Termination of waiver by Commissioner.* (1) The period for which a certificate filed pursuant to section 3121 (k), or pursuant to section 1426 (l) of the Internal Revenue Code of 1939, is in ef-

fect may be terminated by the Commissioner, with the prior concurrence of the Secretary of Health, Education, and Welfare, upon a finding by the Commissioner that the organization has failed to comply substantially with the requirements applicable with respect to the taxes imposed by the act (or the corresponding provisions of prior law) or is no longer able to comply therewith. The Commissioner shall give the organization not less than 60 days' advance notice in writing that the period covered by the certificate will terminate at the end of the calendar quarter specified in the notice of termination.

(2) The notice of termination may be revoked by the Commissioner, with the prior concurrence of the Secretary of Health, Education, and Welfare, by giving written notice of revocation to the organization before the close of the calendar quarter specified in the notice of termination.

§ 31.3121 (l) Statutory provisions; definitions; agreements entered into by domestic corporations with respect to foreign subsidiaries.

*Sec. 3121. Definitions. * * **

(1) *Agreements entered into by domestic corporations with respect to foreign subsidiaries.*—(1) *Agreement with respect to certain employees of foreign subsidiaries.* The Secretary or his delegate shall, at the request of any domestic corporation, enter into an agreement (in such form and manner as may be prescribed by the Secretary or his delegate) with any such corporation which desires to have the insurance system established by title II of the Social Security Act extended to service performed outside the United States in the employ of any one or more of its foreign subsidiaries (as defined in paragraph (8)) by all employees who are citizens of the United States, except that the agreement shall not be applicable to any service performed by, or remuneration paid to, an employee if such service or remuneration would be excluded from the term "employment" or "wages", as defined in this section, had the service been performed in the United States. Such agreement may be amended at any time so as to be made applicable, in the same manner and under the same conditions, with respect to any other foreign subsidiary of such domestic corporation. Such agreement shall be applicable with respect to citizens of the United States who, on or after the effective date of the agreement, are employees of and perform services outside the United States for any foreign subsidiary specified in the agreement. Such agreement shall provide—

(A) That the domestic corporation shall pay to the Secretary or his delegate, at such time or times as the Secretary or his delegate may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 (including amounts equivalent to the interest, additions to the taxes, additional amounts, and penalties which would be applicable) with respect to the remuneration which would be wages if the services covered by the agreement constituted employment as defined in this section; and

(B) That the domestic corporation will comply with such regulations relating to payments and reports as the Secretary or his delegate may prescribe to carry out the purposes of this subsection.

(2) *Effective period of agreement.* An agreement entered into pursuant to paragraph (1) shall be in effect for the period beginning with the first day of the calendar quarter in which such agreement is entered into or the first day of the succeeding calen-

dar quarter, as may be specified in the agreement, but in no case prior to January 1, 1955; except that in case such agreement is amended to include the services performed for any other subsidiary and such amendment is executed after the first month following the first calendar quarter for which the agreement is in effect, the agreement shall be in effect with respect to service performed for such other subsidiary only after the calendar quarter in which such amendment is executed.

(3) *Termination of period by a domestic corporation.* The period for which an agreement entered into pursuant to paragraph (1) of this subsection is effective may be terminated with respect to any one or more of its foreign subsidiaries by the domestic corporation, effective at the end of a calendar quarter, upon giving two years' advance notice in writing, but only if, at the time of the receipt of such notice, the agreement has been in effect for a period of not less than eight years. The notice of termination may be revoked by the domestic corporation by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner as may be prescribed by regulations. Notwithstanding any other provision of this subsection, the period for which any such agreement is effective with respect to any foreign corporation shall terminate at the end of any calendar quarter in which the foreign corporation, at any time in such quarter, ceases to be a foreign subsidiary as defined in paragraph (8).

(4) *Termination of period by Secretary.* If the Secretary or his delegate finds that any domestic corporation which entered into an agreement pursuant to this subsection has failed to comply substantially with the terms of such agreement, the Secretary or his delegate shall give such domestic corporation not less than sixty days' advance notice in writing that the period covered by such agreement will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Secretary or his delegate by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the domestic corporation. No notice of termination or of revocation thereof shall be given under this paragraph to a domestic corporation without the prior concurrence of the Secretary of Health, Education, and Welfare.

(5) *No renewal of agreement.* If any agreement entered into pursuant to paragraph (1) of this subsection is terminated in its entirety (A) by a notice of termination filed by the domestic corporation pursuant to paragraph (3), or (B) by a notice of termination given by the Secretary or his delegate pursuant to paragraph (4), the domestic corporation may not again enter into an agreement pursuant to paragraph (1). If any such agreement is terminated with respect to any foreign subsidiary, such agreement may not thereafter be amended so as again to make it applicable with respect to such subsidiary.

(6) *Deposits in trust fund.* For purposes of section 201 of the Social Security Act, relating to appropriations to the Federal Old-Age and Survivors Insurance Trust Fund, such remuneration—

(A) Paid for services covered by an agreement entered into pursuant to paragraph (1) as would be wages if the services constituted employment, and

(B) As is reported to the Secretary or his delegate pursuant to the provisions of such agreement or of the regulations issued under this subsection,

shall be considered wages subject to the taxes imposed by this chapter.

(7) *Overpayments and underpayments.* (A) If more or less than the correct amount due under an agreement entered into pursuant to this subsection is paid with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such agreement shall be made, without interest, in such manner and at such times as may be required by regulations prescribed by the Secretary or his delegate.

(B) If an overpayment cannot be adjusted under subparagraph (A), the amount thereof shall be paid by the Secretary or his delegate, through the Fiscal Service of the Treasury Department, but only if a claim for such overpayment is filed with the Secretary or his delegate within two years from the time such overpayment was made.

(8) *Definition of foreign subsidiary.* For purposes of this subsection and section 210 (a) of the Social Security Act, a foreign subsidiary of a domestic corporation is—

(A) A foreign corporation more than 50 percent of the voting stock of which is owned by such domestic corporation; or

(B) A foreign corporation more than 50 percent of the voting stock of which is owned by the foreign corporation described in subparagraph (A).

(9) *Domestic corporation as separate entity.* Each domestic corporation which enters into an agreement pursuant to paragraph (1) of this subsection shall, for purposes of this subsection and section 6413 (c) (2) (C), relating to special refunds in the case of employees of certain foreign corporations, be considered an employer in its capacity as a party to such agreement separate and distinct from its identity as a person employing individuals on its own account.

(10) *Regulations.* Regulations of the Secretary or his delegate to carry out the purposes of this subsection shall be designed to make the requirements imposed on domestic corporations with respect to services covered by an agreement entered into pursuant to this subsection the same, so far as practicable, as those imposed upon employers pursuant to this title with respect to the taxes imposed by this chapter.

[Sec. 3121 (1) as added by sec. 209, Social Security Amendments 1954]

§ 31.3121 (1)-1 *Agreements entered into by domestic corporations with respect to foreign subsidiaries.* For provisions relating to the extension of the Federal old-age and survivors insurance system established by title II of the Social Security Act to certain services performed outside the United States by citizens of the United States in the employ of a foreign subsidiary of a domestic corporation, see the Regulations Relating to Contract Coverage of Employees of Foreign Subsidiaries (Part 36 of this chapter).

§ 31.3122 *Statutory provisions; Federal service.*

Sec. 3122, *Federal service.* In the case of the taxes imposed by this chapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, the determination whether an individual has performed service which constitutes employment as defined in section 3121 (b), the determination of the amount of remuneration for such service which constitutes wages as defined in section 3121 (a), and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to such service without regard to the

\$4,200 limitation in section 3121 (a) (1), and he shall not be required to obtain a refund of the tax paid under section 3111 on that part of the remuneration not included in wages by reason of section 3121 (a) (1). The provisions of this section shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this section the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of this subsection [section] shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary, at installations of the Coast Guard for the comfort, pleasure, contentment and mental and physical improvement of personnel of the Coast Guard; and for purposes of this subsection [section] the Secretary shall be deemed to be the head of such instrumentality.

[Sec. 3122 as amended by secs. 202 (c) and 203, Social Security Amendments 1954]

§ 31.3123 *Statutory provisions; deductions as constructive payments.*

Sec. 3123, *Deductions as constructive payments.* Whenever under this chapter or any act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for purposes of this chapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

§ 31.3123-1 *Deductions by an employer from remuneration of an employee.* Any amount deducted by an employer from the remuneration of an employee is considered to be part of the employee's remuneration and is considered to be paid to the employee as remuneration at the time that the deduction is made. It is immaterial that any act of Congress or the law of any State requires or permits such deductions and the payment of the amount thereof to the United States, a State, or any political subdivision thereof.

§ 31.3124 *Statutory provisions; estimate of revenue reduction.*

Sec. 3124, *Estimate of revenue reduction.* The Secretary or his delegate at intervals of not longer than 3 years shall estimate the reduction in the amount of taxes collected under this chapter by reason of the operation of section 3121 (b) (9) and shall include such estimate in his annual report.

[Sec. 3124 as amended by sec. 205 (b), Social Security Amendments 1954]

§ 31.3125 *Statutory provisions; short title.*

Sec. 3125, *Short title.* This chapter may be cited as the "Federal Insurance Contributions Act."

[F. R. Doc. 56-1116; Filed, Feb. 13, 1956; 8:47 a. m.]

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 202]

DETERMINATION OF PREVAILING MINIMUM WAGES IN VARIOUS INDUSTRIES OR A GROUP OF INDUSTRIES

NOTICE OF OPPORTUNITY FOR A HEARING

The Fair Labor Standards Amendments of 1955 (69 Stat. 711) raise the minimum wage under the Fair Labor Standards Act of 1938 from 75 cents per hour to \$1.00, effective March 1, 1956. On the basis of the administrative experience of the Department of Labor, I take official notice of the fact that the Fair Labor Standards Act has general application in the industries and branches for which there are prevailing minimum wage determinations under the Walsh-Healey Public Contracts Act and that the minimum wage requirements of the Fair Labor Standards Act are generally observed. Because of these facts, there is reason to anticipate the evidence at a hearing will justify a determination that the prevailing minimum wage in these industries and branches will be not less than \$1.00 per hour on and after March 1, 1956. I have decided that a hearing with a view to such determination is appropriate now to minimize any unjustified and purely technical discrepancy in administering these two acts.

Prevailing minimum wage determinations of less than \$1.00 per hour have been made at various times in the past and are presently in effect under section 1 (b) of the Walsh-Healey Public Contracts Act as amended (41 U. S. C. 35-45) in each of the following industries and branches of industries as defined in 41 CFR Part 202:

Sec.	
202.2	Cotton Garment and Allied Industries.
202.3	Men's Neckwear Industry.
202.4	Rainwear Industry.
202.5	Knitting, Knitwear, and Woven Underwear Industry.
202.6	Seamless Hosiery Industry.
202.8	Shoe Manufacturing and Allied Industries.
202.9	Dimension Granite Industry.
202.10	Handkerchief Industry.
202.11	Men's Hat and Cap Industry.

Sec.	
202.16	Vitreous or Vitrified China Industry.
202.18	Pressed and Blown Glass and Glassware Industry.
202.19	Luggage, Leather Goods, Belts, and Women's Handbag Industry.
202.20	Fireworks Industry.
202.21	Wool Carpet and Rug Industry.
202.22	Tag Industry.
202.26	Tobacco Industry.
202.27	Furniture Industry.
202.28	Drug, Medicine, and Toilet preparations and Cosmetics Industry.
202.29	Specialty Accounting Supply Manufacturing Industry.
202.31	Soap Industry.
202.32	Fertilizer Industry.
202.33	(a) Paper Bag Branch of the Paper and Pulp Industry.
202.35	Cement Industry.
202.36	Structural Clay Products Industry.
202.37	Uniform and Clothing Industry.
202.38	Die Casting Manufacturing Industry.
202.39	Dental Goods and Equipment Manufacturing Industry.
202.40	Evaporated Milk Industry.
202.41	Paint and Varnish Industry in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.
202.42	Leather Manufacturing Industry.
202.43	Textile Industry: Other Than Cotton, Silk, and Synthetic Branch of the Industry.
202.44	(a) (1) Industrial and Refined Basic Chemical Products Branch of the Chemical and Related Products Industry in the States of Maryland, Virginia, North Carolina, South Carolina, Tennessee, Arkansas, Mississippi, Alabama, Georgia, Florida, and the District of Columbia.
202.44	(a) (2) Cleaning and Polishing Preparations, Insecticides and Fungicides, and Miscellaneous Chemicals Branch of the Chemical and Related Products Industry.
202.45	Aviation Textile Products Manufacturing Industry.
202.46	Gloves and Mittens Industry.
202.48	Surgical Instruments and Apparatus Industry.

I propose to determine what will be the prevailing minimum wages on and after March 1, 1956, (1) in part or all of that group of industries listed above in each of the localities in which they are currently operating, and (2) in each industry and branch listed above. Pursuant to the procedure provided in section

10 of the Walsh-Healey Act, 41 CFR Part 203, and the Administrative Procedure Act (5 U. S. C. 1001-1011), this determination will be made on the record after interested persons are given an opportunity to be heard by the submission of pertinent testimony, data, and argument before the Secretary of Labor or a duly assigned hearing examiner on February 29, 1956, at 10:00 a. m. in Room 2325, United States Department of Labor Building, Fourteenth and Constitution Avenue NW., Washington, D. C.

Persons intending to appear are requested to notify the Administrator of the Wage and Hour and Public Contracts Divisions of their intention in advance of the hearing. Written statements in lieu of personal appearance may be filed by mail with the Administrator at any time prior to the date of the hearing, or may be filed with the presiding officer at the hearing. An original and four copies of any such statement should be filed. Such notices and statements shall be available for inspection by any interested person at all times during regular business hours.

Interested persons who appear will be afforded an opportunity to show any pertinent facts in support of, contrary to, or in addition to those hereinabove officially noticed. Evidence which will be considered pertinent may include actual data or statistically sound estimates of the location, number of employees, and minimum wages paid to able experienced production workers in each establishment in the industry, branch, or area, and the extent to which there is or may be competition for contracts subject to the Act between plants in various areas.

To the extent that \$1.00 per hour prevailing minimum wages are determined, I intend to exercise the authority granted me under section 6 of the Walsh-Healey Act to permit the employment of learners and apprentices at subminimum rates to the same extent authorized under section 14 of the Fair Labor Standards Act.

Signed at Washington, D. C., this 6th day of February 1956.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 56-1122; Filed, Feb. 13, 1956; 8:48 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

National Park Service

[Region 1 Order 2, Amdt. 2]

SUPERINTENDENTS, REGION 1 AND REGIONAL ADMINISTRATIVE OFFICER

DELEGATIONS OF AUTHORITY WITH RESPECT TO PERSONNEL MANAGEMENT

JANUARY 14, 1956.

1. Section 1 is amended to read as follows:

SECTION 1. The National Park Service Superintendents in Region One whose

positions are allocated to Civil Service grades GS-14 and above, in the administration, operation, and development of the areas under their supervision, are authorized to exercise all of the authority delegated to the Regional Director by the Director, except with respect to the following matters:

(a) Classification of any graded or ungraded permanent position and classification of any temporary or seasonal graded position other than one covered by an approved standard position description.

(b) Establishment or abolishment of any graded or ungraded permanent posi-

tion, other than an identical additional position necessary due to the absence of the incumbent of a previously established permanent base position and establishment or abolishment of any temporary or seasonal graded position other than Fire Control Aid positions in grades 2, 3 and 4, and seasonal Park Ranger (all options) positions in grade 4.

(c) Appointments and status changes involving personnel in grade GS-10 and higher grades and Superintendents in all grades.

(d) Authority for approving Outstanding performance ratings.

(e) Retention of any employee beyond the mandatory retirement age and re-employment of an annuitant.

(f) Wage-fixing authority for ungraded employees other than new temporary prevailing rates established for employments which will not exceed thirty days.

2. Section 2 is amended to read as follows:

SEC. 2. The Superintendents whose positions are allocated to Civil Service grades GS-11 to GS-13, inclusive, in the administration, operation, and development of the areas under their supervision, are authorized to exercise all of the authority delegated to the Regional Director by the Director, except with respect to the following matters:

(a) Approval of contracts for construction, supplies, or services in excess of \$25,000.

(b) Classification of any graded or ungraded permanent position and classification of any temporary or seasonal graded position other than one covered by an approved standard position description.

(c) Establishment or abolishment of any graded or ungraded permanent position, other than an identical additional position necessary due to the absence of the incumbent of a previously established permanent base position and establishment or abolishment of any temporary or seasonal graded position other than Fire Control Aid positions in grades 2, 3, and 4, and seasonal Park Ranger (all options) positions in grade 4.

(d) Appointments and status changes involving personnel in grade GS-10 and higher grades and Superintendents in all grades.

(e) Authority for approving Outstanding performance ratings.

(f) Retention of any employee beyond the mandatory retirement age and re-employment of an annuitant.

(g) Wage-fixing authority for ungraded employees other than new temporary prevailing rates established for employments which will not exceed thirty days.

3. Section 3 is amended to add the following exceptions:

(i) Classification of any graded or ungraded permanent position and classification of any temporary or seasonal graded position other than one covered by an approved standard position description.

(j) Establishment or abolishment of any graded or ungraded permanent position, other than an identical additional position necessary due to the absence of the incumbent of a previously established permanent base position and establishment or abolishment of any temporary or seasonal graded position other than Fire Control Aid positions in grades 2, 3, and 4, and seasonal Park Ranger (all options) positions in grade 4.

(k) Authority for approving Outstanding performance ratings.

(l) Retention of any employee beyond the mandatory retirement age and re-employment of an annuitant.

No. 30—6

(m) Wage-fixing authority for ungraded employees other than new temporary prevailing rates established for employments which will not exceed thirty days.

(National Park Service Order No. 14; Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

[SEAL] ELBERT COX,
Regional Director, Region One.

[F. R. Doc. 56-1126; Filed, Feb. 13, 1956; 8:49 a. m.]

[Region 5 Order 1, Amdt. 1]

SUPERINTENDENTS, REGION 5

DELEGATION OF AUTHORITY WITH RESPECT TO APPEAL

JANUARY 18, 1956.

Section 6 of Order No. 1, issued September 13, 1955 (20 F. R. 6718), is amended to read as follows:

SEC. 6. *Appeal.* Except in matters relating to contracts for construction, supplies, or services, any party aggrieved by any action or decision of the Superintendent shall have a right of appeal to the Regional Director. Any such appeal shall be in writing and shall be submitted to the Regional Director within thirty days after receipt by the aggrieved party of notice of the action taken or decision made by the Superintendent.

(National Park Service Order No. 14; 39 Stat. 535; 16 U. S. C., 1952 ed., Sec. 2)

[SEAL] DANIEL J. TOBIN,
Regional Director, Region Five.

[F. R. Doc. 56-1124; Filed, Feb. 13, 1956; 8:48 a. m.]

[Grand Teton National Park Order 1]

ASSISTANT SUPERINTENDENT AND ADMINISTRATIVE OFFICER

DELEGATION OF AUTHORITY TO EXECUTE AND APPROVE CERTAIN CONTRACTS

JANUARY 20, 1956.

SECTION 1. *Contracts.* The Assistant Superintendent and Administrative Officer may execute and approve contracts not in excess of \$50,000 for construction, supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations. This authority may be exercised by the Assistant Superintendent and Administrative Officer in behalf of any office or area under the supervision of the Superintendent of Grand Teton National Park.

SEC. 2. *Special use permits.* The Assistant Superintendent and Administrative Officer may issue revocable special use permits having a term of three years or less.

SEC. 3. *Appeals.* Except in matters relating to contracts for construction, supplies, equipment, or services, any party aggrieved by any action or decision of the Assistant Superintendent or Administrative Officer shall have a right of appeal to the Superintendent of the area.

Any such appeal shall be in writing and shall be submitted to the Superintendent within 30 days after receipt by the aggrieved party of notice of action taken or decision made by the Assistant Superintendent or Administrative Officer.

(National Park Service Order No. 14, Amendment 3 (20 F. R. 8582); 39 Stat. 535; 16 U. S. C., 1952 ed., sec. 2. Region Two Order No. 2, Amendment No. 1 (20 F. R. 9956).)

[SEAL] FRANK R. OBERHANSLEY,
Superintendent,
Grand Teton National Park.

[F. R. Doc. 56-1125; Filed, Feb. 13, 1956; 8:48 a. m.]

[Yellowstone National Park Order 1, Amdt. 1]

ASSISTANT SUPERINTENDENT AND SUPERVISING PURCHASING AGENT

DELEGATION OF AUTHORITY WITH RESPECT TO APPEAL

JANUARY 26, 1956.

Section 3 of Order No. 1, issued April 21, 1955 (20 F. R. 3344), is revoked.

(National Park Service Order No. 14, Amendment 3 (20 F. R. 8582); 39 Stat. 535; 16 U. S. C., 1952 ed., sec. 2. Region Two Order No. 2, Amendment No. 1 (20 F. R. 9956).)

[SEAL] WARREN F. HAMILTON,
Acting Superintendent,
Yellowstone National Park.

[F. R. Doc. 56-1127; Filed, Feb. 13, 1956; 8:49 a. m.]

[Southwestern National Monuments Order 1, Amdt. 1]

ASSISTANT GENERAL SUPERINTENDENT AND ADMINISTRATIVE OFFICER

DELEGATION OF AUTHORITY TO EXECUTE AND APPROVE CERTAIN CONTRACTS

JANUARY 10, 1956.

Southwestern National Monuments Order No. 1, issued August 15, 1955 (20 F. R. 6985), is amended by deleting section 3.

(National Park Service Order No. 14 (19 F. R. 8824); 39 Stat. 535; 16 U. S. C., 1952 ed., sec. 2. Region Three Order No. 2 (19 F. R. 8825).)

[SEAL] JOHN M. DAVIS,
General Superintendent,
Southwestern National Monuments.

[F. R. Doc. 56-1128; Filed, Feb. 13, 1956; 8:49 a. m.]

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[Amdt. 9]

ORGANIZATION AND FUNCTIONS

TECHNICAL DEVELOPMENT CENTER; BUDGET AND FINANCE OFFICE

In accordance with the public information requirements of the Administrative Procedure Act, the description of the Organization and Functions of the Civil Aeronautics Administration is hereby amended by (1) changing the title of the Technical Development and Evaluation

Center, and (2) eliminating the Accounting Division of the Budget and Finance Office, and establishing in lieu thereof an Audit Division and an Accounts Division.

1. Section 11 (b) (3) published in 20 F. R. 2202, section 14 (b) (4) published in 20 F. R. 2202 and renumbered as 14 (b) (5) in 20 F. R. 8548, and section 16 (d) published in 19 F. R. 2100, are amended by changing "Technical Development and Evaluation Center" to "Technical Development Center."

2. Section 15 (c) published in 20 F. R. 2203 is amended by changing the last sentence to read: "The Budget and Finance Office has an Estimates Division, Audit Division, Accounts Division, and Fiscal Management Division."

This amendment is effective February 2, 1956.

[SEAL] C. J. LOWEN,
Administrator of Civil Aeronautics.

Approved:

SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 56-1120; Filed, Feb. 13, 1956;
8:48 a. m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 6211, 7608]

CENTRAL AIRLINES, INC., AND FRONTIER
AIRLINES, INC.

NOTICE OF PREHEARING CONFERENCE

Notice is hereby given that a prehearing conference in the above-entitled applications is assigned to be held on February 20, 1956, at 10:00 a. m., e. s. t., in Room 1512, Temporary Building No. 4, Seventeenth Street and Constitution Avenue NW., Washington, D. C., before Examiner F. Merritt Ruhlen.

Dated at Washington, D. C., February 9, 1956.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 56-1130; Filed, Feb. 13, 1956;
8:49 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-9942]

RALPH R. GILSTER ET AL.

ORDER INSTITUTING INVESTIGATION

In the matter of Ralph R. Gilster, James E. Kemp, Jones & O'Brien, Incorporated, Midwest Oil Corporation, Jack W. Grigsby, Frank W. Scheller, Leo D. Recknagel, and Robert E. Adair, d/b/a Smackover Producing Company.

The above entitled persons (Respondents) are engaged in the production of natural gas in the State of Louisiana and the sale thereof in interstate commerce for resale for ultimate public consumption, and each is a natural-gas company within the meaning of the Natural Gas Act, as found by the Commission by order issued this date in the Matter of Gilster and Kemp et al., Docket No. G-9418.

On September 29, 1955, Respondents, as parties Seller, submitted for filing a

contract, dated August 15, 1955, with Texas Eastern Transmission Corporation, as Buyer, for the sale of gas produced in the Bethany-Longstreet Area in Caddo and DeSoto Parishes, Louisiana, which was designated by the Commission as Ralph R. Gilster et al., FPC Gas Rate Schedule No. 2, and accepted for filing by Commission letter dated November 18, 1955.

In addition to the sales of natural gas hereinbefore specifically referred to, it appears from the Commission's files that some of the Respondents also engage in other sales of natural gas in interstate commerce. It further appears that, upon the basis of data available to the Commission, the rates, charges, and classifications for or in connection with the sale or transportation of natural gas by the Respondents herein, subject to the jurisdiction of the Commission, and the rules, regulations, practices, and contracts relating thereto may be unjust, unreasonable, unduly discriminatory, or preferential.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that investigations be instituted by the Commission, upon its own motion, into and concerning all rates, charges, or classifications demanded, observed, charged or collected by the said Respondents in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, and any rules, regulations, practices or contracts affecting such rates, charges or classifications.

The Commission orders:

(A) An investigation of Respondents be and is hereby instituted under the provisions of the Natural Gas Act for the purpose of enabling the Commission to determine whether, with respect to any transportation or sale of natural gas, subject to the jurisdiction of the Commission, made or proposed to be made by such Respondents, any of the rates, charges, or classifications demanded, observed, charged, or collected, or any rules, regulations, practices or contracts affecting such rates, charges or classifications are unjust, unreasonable, unduly discriminatory or preferential.

(B) If the Commission, after a hearing has been had, shall find with respect to the Respondents that any of their rates, charges, classifications, rules, regulations, practices, or contracts subject to the jurisdiction of the Commission, are unjust, unreasonable, unduly discriminatory, or preferential, the Commission will thereupon determine and fix by order or orders just and reasonable rates, charges, classifications, rules, regulations, practices or contracts to be thereafter observed and in force.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act, particularly sections 5, 14, 15, and 16 thereof, and the Commission's rules of practice and procedure, a public hearing be held upon a date to be fixed by further order of the Commission concerning the matters specified in paragraphs (A) and (B) above.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

Adopted: February 1, 1956.

Issued: February 7, 1956.

By the Commission.¹

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-1106; Filed, Feb. 13, 1956;
8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 8, 1956.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 31653: *Increased express rates, 1956.* Filed by Railway Express Agency, Incorporated, for itself and interested express companies. Rates on commodities moving on first and second class express rates between points in the United States.

Grounds for relief: Grouping and circuitry.

Tariff: Railway Express Agency tariff I. C. C. 8250.

FSA No. 31654: *Soda products—North Baton Rouge, La., to Texas.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on caustic soda, liquid, tank-car loads, and related caustic sodas and soda ash, carloads, from North Baton Rouge, La., to specified points in Texas.

Grounds for relief: Circuitous routes.

Tariff: Supplement 41 to Agent Kratzmeir's I. C. C. 4161.

FSA No. 31655: *Grains—Iowa and Missouri to Western points.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on coarse grains, sorghum grains, and related products, carloads from specified points in Iowa and Missouri on the C. B. & Q. Railroad to specified points in Colorado, Kansas, Missouri, and Nebraska on the Mo. Pac. Railroad.

Grounds for relief: Circuitous routes.

Tariff: Supplement 12 to Agent Prueter's I. C. C. A-4021.

FSA No. 31656: *Commodities, from, to, and between Western points.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on cullet (broken glass), hair, cattle, goat, hog and wallboard, carloads from, to and between points in western trunk-line territories.

Grounds for relief: Carrier competition and circuitry.

FSA No. 31657: *Grain and products—Iowa and Missouri to Marshall, Mo.* Filed by Chicago Great Western Railway Company for itself and interested rail carriers. Rates on grain, grain products, and seeds, carloads, from specified points

¹ Commissioner Digby dissenting.

in Iowa and Missouri on the Chicago Great Western Railroad to Marshall, Mo., on the Gulf, Mobile and Ohio Railroad Company, and Missouri Pacific Railroad Company (Guy A. Thompson, Trustee).

Grounds for relief: Short-line distance formula, grouping, and circuitry.

Tariff: Supplement 9 to Chicago Great Western Railway Company's tariff I. C. C. 5624.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 56-1087; Filed, Feb. 10, 1956;
8:46 a. m.]

GENERAL SERVICES ADMINISTRATION

DOMESTIC PURCHASE REGULATIONS

QUARTERLY REPORT

Activities under the Defense Production Act as Amended. Quarterly report of purchases under domestic purchase regulations as of December 31, 1955.

Pursuant to section 4, Public Law 206, 83rd Congress, the tabulation below details the quarterly and cumulative purchases under Purchase Regulation noted.

Regulation	Termination date	Units	Quantity		
			Program limitation	Purchases during quarter	Cumulative purchases through end of quarter
Asbestos.....	Oct. 1, 1957	Short tons, crude No. 1 and/or crude No. 2 asbestos.	1,500	168	1,361
		Short tons, crude No. 3		105	645
Beryl.....	June 30, 1957	Short dry tons, beryl ore.	1,500	59	833
Chrome.....	do.....	Long dry tons, chrome ore and/or chrome concentrates.	200,000	7,069	101,634
Columbium-tantalum.....	Dec. 31, 1958	Pounds contained combined pentoxide.	15,000,000	1,717,730	15,163,757
Manganese:					
Butte-Phillipsburg.....	June 30, 1958	Long ton units, recoverable, manganese.	6,000,000	227,108	2,036,325
Deming.....	do.....	do.....	6,000,000	1,723,769	6,183,415
Wenden.....	do.....	do.....	6,000,000		6,108,316
Domestic small producers.....	do.....	Long ton units, contained, manganese.	19,000,000	838,021	8,331,520
Mica.....	June 30, 1957	Short tons, hand-cobbed mica or equivalent.	25,000	527	7,526
Tungsten.....	July 1, 1958	Short ton units, tungsten trioxide.	3,000,000	226,874	2,379,975

¹ Quantities represent deliveries.

EDMUND F. MANSURE,
Administrator.

FEBRUARY 6, 1956.

[F. R. Doc. 56-1090; Filed, Feb. 13, 1956; 8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3441]

MISSISSIPPI POWER CO.

NOTICE OF FILING REGARDING ISSUANCE AND SALE OF BONDS AND PREFERRED STOCK

FEBRUARY 8, 1956.

Notice is hereby given that Mississippi Power Company ("the Company"), a public utility subsidiary of The Southern Company, a registered holding company, has filed a declaration pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 6 (a) and 7 of the act and Rule U-50 thereunder as applicable to the proposed transactions, which are summarized as follows:

The Company, a Maine corporation, proposes to issue and sell, pursuant to the competitive bidding requirements of Rule U-50, \$4,000,000 principal amount of its First Mortgage Bonds, -- Percent Series due 1986 ("Bonds") and 40,000 shares of its -- Percent Preferred Stock, 1956 Series, par value \$100 per share ("Preferred Stock").

The Bonds will be issued under and secured by an indenture dated as of September 1, 1941, between the Company and Guaranty Trust Company of New York, as Trustee, and indentures supple-

mental thereto, including a proposed eighth supplemental indenture to be dated as of March 1, 1956. The invitation for bids will specify that the amount to be received by the Company shall not be less than 100 percent nor more than 102.75 percent of the principal amount thereof, and that the interest rate shall be a multiple of $\frac{1}{8}$ of 1 percent.

The invitation for bids for the Preferred Stock will specify that the amount to be received by the Company shall not be less than \$100 per share, nor more than \$102.75 per share (plus accrued dividends), and that the dividend rate shall be a multiple of 4 hundredths of one percent (0.04 percent).

The net proceeds from the sale of bonds and preferred stock will be applied toward the construction or acquisition of permanent improvements, extensions and additions to the Company's utility plant which are estimated at \$12,396,205 for 1956.

Declarant represents that the proposed issuance and sale of bonds and preferred stock are not subject to the jurisdiction of any State Commission or of any Federal Commission other than this Commission.

The Company requests that the Commission's order herein be made effective on or before February 23, 1956.

Notice is further given that any interested person may, not later than

February 23, 1956 at 12:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date said declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 56-1108; Filed, Feb. 13, 1956;
8:45 a. m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 82, Amdt. 1]

OREGON

AMENDMENT TO DECLARATION OF DISASTER AREA

Declaration of Disaster Area 82, dated December 30, 1955, for the State of Oregon, is hereby amended as follows:

By including in paragraph 1 thereof the County of Wasco.

Dated: February 3, 1956.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 56-1117; Filed, Feb. 13, 1956;
8:47 a. m.]

[Declaration of Disaster Area 84]

OREGON

DECLARATION OF DISASTER AREA

Whereas it has been reported that because of excessive rainfall in the months of November 1955 and January 1956, a landslide has occurred which has resulted in damages to residences and business property located in a certain area in the State of Oregon; and

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected; and

Whereas after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act of 1953, as amended; Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) (1) of the Small Business Act of 1953, as amended, may be received and considered by the offices below indicated

from persons or firms whose property situated in Multnomah County, Oregon (including any area adjacent to the county named) suffered damage or other destruction as a result of the catastrophe above referred to:

Small Business Administration Regional Office, Burke Building, 905 Second Avenue, Seattle, Washington.

Small Business Administration Branch Office, Old U. S. Courthouse, 520 SW Morrison Street, Portland 4, Oregon.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted after August 31, 1956.

Dated: February 3, 1956.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 56-1118; Filed, Feb. 13, 1956; 8:47 a. m.]

[Declaration of Disaster Area 85]

WASHINGTON

DECLARATION OF DISASTER AREA

Whereas it has been reported that because of excessive rainfall in the months of November 1955 and January 1956, a landslide has occurred which has resulted in damages to residences and business property located in a certain area in the State of Washington; and

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected; and

Whereas after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act of 1953, as amended; Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) (1) of the Small Business Act of 1953, as amended, may be received and con-

sidered by the office below indicated from persons or firms whose property situated in Snohomish County, Washington (including any area adjacent to the county named) suffered damage or other destruction as a result of the catastrophe above referred to:

Small Business Administration Regional Office, Burke Building, 905 Second Avenue, Seattle, Washington.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted after August 31, 1956.

Dated: February 3, 1956.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 56-1119; Filed, Feb. 13, 1956; 8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

LUCIA LIGUORI ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Lucia Liguori, Rome, Italy; Maria Liguori, Rome, Italy; Augusto Liguori, Rome, Italy; Nicola Angelini, Monterotondo, Italy; Claim No. 62994. An undivided two-fourteenths interest each to Lucia Liguori, Maria Liguori and Augusto Liguori and an undivided one-fourteenth interest to Nicola Angelini in the property described in Vesting Order No. 201 (8 F. R. 625, January 16, 1943) relating to United States Letters Patent No. 2,270,320; subject, however to the royalty free, non-

exclusive License Agreement dated March 7, 1944 (License No. 580) by and between the Alien Property Custodian and Lewyt Corporation, Brooklyn, New York relating to the above patent and the royalty free, non-exclusive License Agreement dated July 7, 1945 (License No. 1501) by and between the Alien Property Custodian and the Raytheon Manufacturing Company, Newton, Massachusetts relating to the aforesaid patent. Vesting Order No. 201.

Executed at Washington, D. C., on February 7, 1956.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 56-1113; Filed, Feb. 13, 1956; 8:46 a. m.]

WERKSPOR N. V.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Werkspoor N. V., Amsterdam, Holland; Claim No. 42713. Property described in Vesting Order No. 671 (8 F. R. 5004, April 17, 1943), relating to United States Letters Patent Nos. 1,868,406; 1,970,732; 1,974,114; 1,982,978; 2,160,533 and 2,247,719.

Executed at Washington, D. C., on February 7, 1956.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 56-1114; Filed, Feb. 13, 1956; 8:46 a. m.]